MARAD/FMC AUTHORIZATIONS, FISCAL YEAR 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4200

A BILL TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1989 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION AND THE FEDERAL MARITIME COMMISSION

MARCH 23, 1988

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CONTENTS

Page

Text of H.R. 4200 ... 35
Executive Communication No. 3235 ... 55

Statement of:

- Anderson, Hon. Glenn M., a U.S. Representative from California ... 10
- Aylmer, Rear Adm. John, USMS, superintendent, Massachusetts Maritime Academy ... 29
- Biaggi, Hon. Mario, a U.S. Representative from New York, and vice chairman, Committee on Merchant Marine and Fisheries ... 8
- Bourgoin, Robert D., general counsel, Federal Maritime Commission ... 22
- Carey, James J., Vice Chairman, Federal Maritime Commission ... 22
- Chao, Elaine, Deputy Administrator, Maritime Administration ... 4
- Creelman, William A., Deputy Administrator for Inland Waterways and Great Lakes, Maritime Administration ... 4
- Curtis, Rear Adm. Kenneth M., USMS, President, Maine Maritime Academy ... 29
- Davis, Hon. Robert W., a U.S. Representative from Michigan, and ranking minority member, Committee on Merchant Marine and Fisheries ... 9
- Ekelund, Rear Adm. John J., USMS, president, California Maritime Academy ... 29
- Friedberg, Arthur W., Director, Office of Maritime Labor and Training, Maritime Administration ... 4
- Gaughan, John A., Administrator, Maritime Administration, Department of Transportation ... 4
  - Prepared statement ... 78
- Grill, Philip M., vice president, Matson Navigation Co., Inc., (prepared statement) ... 288
- Jones, Hon. Walter B., a U.S. Representative from North Carolina, and chairman, Subcommittee on Merchant Marine ... 1
- Lent, Hon. Norman F., a U.S. Representative from New York, and ranking minority member, Subcommittee on Merchant Marine ... 2
- Merrell, Dr. William J., president, Texas Maritime Academy ... 29
- Miller, Rear Adm. Floyd H., USN (Retired), president, State University of New York Maritime College ... 29
- Philbin, Edward J., Acting Chairman, Federal Maritime Commission ... 22
  - Prepared statement ... 120
- Piotti, Vice Adm. Walter T., Jr., USN, Commander, Military Sealift Command, Department of the Navy ... 26
  - Prepared statement ... 268
- Presidents and superintendents of the Maritime Academies/Colleges of California, New York, Maine, Massachusetts, the Great Lakes Region, and Taxas (prepared statement) ... 274
- Saxton, Hon. H. James, a U.S. Representative from New Jersey ... 3

Additional material supplied:

California Maritime Academy:

- Answers to questions of Mr. Anderson ... 284

Federal Maritime Commission:

- Automated Tariff Filing and Information Advisory Committee ... 201
- Compromise proposal ... 24
- Inquiry into laws, regulations and policies of the Republic of Korea affecting shipping in the United States/Korea trade ... 250
- Report of tariff automation inquiry ... 153

Responses to questions of:

- Hon. Glenn M. Anderson ... 249
- Hon. Walter B. Jones ... 123

Additional material supplied—Continued
- Maritime Administration: Page
  - Alternative ship-sharing schedules 293
  - Comments in response to the allegations and statements made by the presidents and superintendents of the Maritime Academies/colleges 98
  - "Economic Feasibility of Consolidating Federally-Funded Activities at the State Maritime Schools," draft study dated June 1981 306
  - Funding level of Merchant Marine Reserve, U.S. Naval Reserve 19
  - MARAD Internal Documents on Training Ship Sharing 16
  - Memorandum of agreement dated October 26, 1982, between the Department of the Navy and Department of Transportation 299
  - Responses to questions of:
    - Hon. Glenn M. Anderson 93
    - Hon. Walter B. Jones 82
  - "State Maritime Academy Sea Training Proposal," draft study dated July 1982 352
  - "State Maritime Schools Training Ship Replacement Alternatives Study," draft study dated February 1986 391
  - UNCTAD Conference in Geneva and United States' Participation 12
- Navy Department:
  - Responses to questions of:
    - Hon. Glenn M. Anderson 273
    - Hon. Walter B. Jones 272
- State Maritime Academy ship sharing problems with the Maritime Administration's proposal 281
- Subcommittee staff:
  - Comparison of Federal and State Maritime Academy student requirements 53
  - MARAD and FMC budget comparisons 52
  - Section-by-section analysis of H.R. 4200 45

Communications submitted:
- Alexander, David J. (American Management Systems, Inc.): Letter of December 9, 1986, to James A. Warner 246
- Boyd, Thomas M. (Department of Justice): Letter of June 16, 1988, to Hon. Walter B. Jones 77
- Ewers, John Robert (FMC): Letter of December 17, 1986, to David Peyton 243
- Friedberg, Arthur W. (MARAD): Letter of August 9, 1988, to Rear Adm. Floyd H. Miller with enclosure 292
- Gaughan, John (MARAD):
  - Letter of March 29, 1988, to Hon. Walter B. Jones with enclosures 304
  - Letter of April 12, 1988, to Hon. James Joseph Carey 150
  - Letter of April 16, 1988, to Hon. Walter B. Jones 113
  - Letter of May 4, 1988, to Hon. Norman F. Lent 116
  - Letter of June 10, 1988, to Hon. Walter B. Jones 96
- Jones, Hon. Walter B.:
  - Letter of April 26, 1988, to John A. Gaughan 95
  - Letter of April 26, 1988, to Edwin Meese III 75
- Lent, Hon. Norman F.: Letter of April 11, 1988, to Hon. John Gaughan 118
- Majority and minority staff:
  - Memorandum of March 22, 1988, to members, Subcommittee on Merchant Marine, on MARAD/FMC authorization for fiscal year 1989 39
- McNulty, James F. (Great Lakes Maritime Academy): Letter of March 3, 1988, to Hon. Robert W. Davis 286
- Miller, Rear Adm. F.H. (New York Maritime College): Letter of August 24, 1988, to Arthur W. Friedberg 290
- O'Neill, Thomas P. Jr.; Gerry E. Studds, Edward M. Kennedy, Brian J. Donnelly, Paul Tsongas, Silvio O. Conte, Margaret Heckler, and Barney Frank: Letter of May 19, 1981, to Mr. Samuel B. Nemirow 350
- Peyton, David (Information Industry Association):
  - Letter of December 1, 1986, to John Robert Ewers with attachment 234
  - Letter of December 26, 1986, to John Robert Ewers 247
- Saari, James E. (DOT): Letter of March 18, 1988, to Filomena Magavero 119

MARAD/FMC AUTHORIZATION FOR FISCAL YEAR 1989

WEDNESDAY, MARCH 23, 1988

House of Representatives,
Subcommittee on Merchant Marine,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:37 p.m., in room 1334, Longworth House Office Building, Hon. Walter B. Jones (chairman of the subcommittee) presiding.

Present: Representatives Jones, Tallon, Lent, Saxton, Miller and Coble.

Also present: Mr. Studds, Member, Committee on Merchant Marine and Fisheries.

Subcommittee staff present: Cynthia M. Wilkinson, Chief Counsel; Rudolph V. Cassani, Counsel; Melanie M. Barber, Counsel; Ann M. Mueller, Clerk; and Kip Robinson, Minority Counsel.

Committee staff present: Ed Welch, Chief Counsel; Gerry Seifert, General Counsel for Maritime Affairs; Mark Aspinwall, Staff Assistant; George Pence, Minority Staff Director; Duncan Smith, Minority Chief Counsel; Rusty Johnston, Minority Counsel; and Gwen Lockhart, Chief Minority Clerk.

STATEMENT OF HON. WALTER B. JONES, A U.S. REPRESENTATIVE FROM NORTH CAROLINA AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. Jones. The Subcommittee will come to order, please.

We are meeting today to receive testimony from the Administration and the State maritime academies on the Federal programs designed to promote the U.S.-flag merchant marine. This comes at a time when the fleet and the shipyards are in dire need of help. Our national security is dependant on our ability to ensure that healthy U.S.-flag sealift assets continue to ply commercial trade routes in peacetime in an atmosphere of healthy competition.

Many questions present themselves today. What is an appropriate level of funding for the Operating-Differential Subsidy [ODS] Program? What level of funding for the State maritime academies is adequate, and what should be the *quid pro quo* for students who get Federal assistance? How will the concentration of responsibilities over the Ready Reserve Force [RRF] in the Maritime Administration [MARAD] affect the agency's ability to carry out its tasks?

I have introduced a bill, H.R. 4200, to fund the Maritime Administration and the Federal Maritime Commission [FMC] for fiscal year 1989. It provides more than $486 million for MARAD and $15 million for the FMC.

The bill differs from the Administration's budget request in several ways. First, it authorizes an extra $25 million for ODS, with an eye toward the passage of fair and growth-oriented reform legislation.

Second, it establishes a separate line item for research and development [R&D] and reallocates $2 million out of operations and training [O&T] for this purpose. While it does not increase Federal outlays, it does send an important signal to our maritime community that one way to improve the efficiency and competitiveness of our fleet is to make sure R&D programs are encouraged. This initiative is in line with the report of the President's Commission on Merchant Marine and Defense.

Third, H.R. 4200 differs from the budget request by adding $2 million to the State maritime school line item. In return for this slight increase in funding, the bill includes language to increase the commitment of students who receive assistance under the Student Incentive Payment [SIP] Program. We should bear in mind that the States themselves bear the lion's share of funding responsibilities for the State academies.

Fourth, the bill allocates $110,751,000 for acquisition and maintenance of vessels for the Ready Reserve Force. Previously, most funding for this program was within the Navy. This amount is consistent with the Administration's request and should not be controversial. I believe this initiative is an important step and reflects a commitment to more efficiently manage our sealift assets.

Finally, H.R. 4200 includes language from last year's bill that would place offshore oil industry vessels and inland waterway vessels outside the scope of the Title XI Loan Guarantee Program until 1990. The purpose of this is to limit the program to only the oceangoing fleet for the time being. Many of the well-publicized defaults recently were caused by a downturn in the oil industry,

The funding level in H.R. 4200 for the FMC is identical to that requested by the Administration. I think it is reasonable to ask whether the level is sufficient to support the Commission's work on the Automated Tariff Filing and Information System [ATFI], and the beefed-up trade enforcement measures which may well be enacted this year. If not, the Committee should consider amending the amount requested to more accurately fund the Commission's duties.

The Bennett Commission, which so ably highlighted the drastic situation confronting the merchant marine, presented the President and the Nation with a mandate: Do something now! We must seize this opportunity to rectify some of the problems, and I suggest that a first step would be to pass an authorization bill that realistically addresses the needs of the U.S.-flag merchant marine.

Mr. Lent.

STATEMENT OF HON. NORMAN F. LENT, A U.S. REPRESENTATIVE FROM NEW YORK AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON MERCHANT MARINE

Mr. LENT. Thank you, Mr. Chairman.

I am pleased that we are here today for our annual rite of spring dealing with the authorization of the programs for the Maritime Administration [MARAD] and the Federal Maritime Commission [FMC].

It was a pleasure for me to cosponsor H.R. 4200, the bill authorizing the MARAD and FMC budgets. I concur in all of the dollar authorizations contained in this legislation. I do want to say I am quite pleased that the Administration has acknowledged the need for legislative reform of the Operating-Differential Subsidy [ODS] Program and has included in their budget request additional funds in the amount of $26 million for a broader ODS program. I do agree, however, with our bill which includes an additional $25 million for the ODS program beyond that requested.

I also support the two provisions in the bill to revise the Student Incentive Payment Program for cadets attending the State maritime academies, and to correct the situation that contributed to defaults under the Title XI Vessel Loan Guarantee Program. On this latter point, I would make one observation. At the appropriate time, I will urge the Committee to extend the date under section 4 of H.R. 4200 to lengthen the period during which guarantees may not be granted for these programs.

I note that we will be hearing from a panel of superintendents from the State maritime academies during our hearing this afternoon, and I hope that we will authorize funding for the academies at a level that will accommodate the needs of these institutions.

Mr. Chairman, the last item I want to comment on this afternoon is the fact that the Administration has submitted in its budget request a proposal to support the Ready Reserve Force within the Maritime Administration, as opposed to within the Navy as has been the case in the last several years. I am hopeful that this will put an end to the unseemly controversy between the two Federal agencies, and that we can now make sure that this program is adequately maintained, with an appropriate role for both MARAD and the Navy, since it is such an integral part of our sealift program.

Thank you, Mr. Chairman. I look forward to hearing the statements of our witnesses.

Mr. JONES. Thank you, Mr. Lent.

Mr. Saxton.

Mr. SAXTON. Mr. Chairman, I have a statement, but in the interest of my time as well as everyone else's here, I'll just submit it for the record.

Mr. JONES. Without objection, it is so ordered.

[The prepared statement of Mr. Saxton follows:]

STATEMENT BY HON. H. JAMES SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Thank you, Mr. Chairman. I appreciate the opportunity to offer a brief statement.

Prior hearings as well as this one today which deal with various programs or parts of our United States maritime policy are taking on more importance than ever before. The declining sealift capacity of our merchant marine fleet impacts our national security at a time when we are refocusing on conventional forces. It is also contributing to the shrinking of our industrial base.

To face the challenge and find solutions to the complex problem of stabilizing and rebuilding our merchant marine, it will be essential that we have the cooperation of all parties. It will require spending dollars more wisely and more creatively. It will require efficiencies that we may not have considered before. It will probably require new initiatives as well.

Previously, I have pursued the matter of improvements in the area of financing of ship construction, and I would appreciate hearing from any of the witnesses with particular suggestions in this area. But we should not overlook anything that can be done. And it will take the collective efforts of Members of Congress, Government agencies, and the private sector.

Mr. Chairman, it is my hope that at every one of these hearings, we will examine every aspect of our programs and responsibilities to address the challenge to our merchant marine.

Mr. JONES. We have with us this afternoon a panel of expert witnesses headed by the Maritime Administrator, John Gaughan. At this time the Chair will recognize the panel. We are delighted to hear from you.

STATEMENT OF HON. JOHN A. GAUGHAN, ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY ELAINE CHAO, DEPUTY ADMINISTRATOR; WILLIAM A. CREELMAN, DEPUTY ADMINISTRATOR FOR INLAND WATERWAYS AND GREAT LAKES; AND ARTHUR W. FRIEDBERG, DIRECTOR, OFFICE OF MARITIME LABOR AND TRAINING

Mr. GAUGHAN. Mr. Chairman and Members of the Subcommittee, I am accompanied today by Mr. Bill Creelman and Miss Elaine Chao, both Deputy Maritime Administrators, and Mr. Arthur Friedberg, the Director of the Agency's Office of Maritime Labor and Training.

It is a pleasure for me to be here this afternoon to present the views of the Administration with respect to the authorization request of the Maritime Administration for fiscal years 1989 and 1990. You have two bills before you today—the Administration's draft bill and H.R. 4200, introduced by Chairman Jones and other members of the Committee. While the bills are similar in certain respects, there also are significant differences. In particular, H.R. 4200 includes $300 million for ODS, while the Administration's bill provides $248.9 million, in case of no ODS reform, and $275.3 million if ODS reform is enacted. In addition, H.R. 4200 provides an extra $2 million for State maritime schools, and separately authorizes $2 million for research and development, which the Administration proposes be used for technical and program studies. The major substantive differences between H.R. 4200 and the Administration's draft bill lie in the State school and title XI programs, which I will discuss in more detail later in my statement.

Mr. Chairman, several new policy directions and related budget changes result from Administration fiscal year 1989 initiatives. These initiatives are consistent with the purposes enacted over 50 years ago to foster an adequate and well-balanced merchant marine in order to promote the commerce of the United States and also aid in its national defense.

First, we are taking actions to further the active merchant marine through the reduction and elimination of unnecessary regulations and the financial reform of operating subsidies. Our budget for operating-differential subsidy requests appropriations to liquidate contract authority which will adequately support the current program. A reform of the ODS program was proposed in late 1987 in order to stem the decline of the U.S.-flag foreign trade fleet by promoting more competition, reducing Federal costs per ship, and opening the program to previously unsubsidized operators. The President's 1989 budget sets aside additional funds to implement this reform legislation. Upon enactment, a total of $275,290,000 would be available, of which $202,370,000 would be for payment of obligations incurred for ODS under existing contracts and $72,920,000 would be for new agreements authorized by the legislation. These proposals include measures to reduce costs. I would like to urge the Subcommittee to adopt the funding levels in the Administration's draft bill, which I believe are adequate to finance an improved and fiscally responsible reform of the ODS program.

The Administration, in this request, resumes support for the State marine schools on the condition that the program is restructured to improve its cost-effectiveness and to maximize the return on the Federal dollar.

I would hope the Committee welcomes this renewed effort by the Administration to assure the availability of trained merchant marine personnel in a time of national emergency. We are requesting $8 million, whereas H.R. 4200 provides $10 million for this activity. In order to assure availability of State school graduates during a national emergency, we are requesting an authorization for the State schools which conditions the use of funds and the provision of training ships on each school, requiring each graduate to pass merchant marine officer licensing exams, and apply for and accept, if offered, a 6-year commission in the Navy or Coast Guard Reserve, or a reserve unit of another Armed Force. These requirements are already in place for U.S. Merchant Marine Academy graduates.

In addition, graduates of the U.S. Merchant Marine Academy also have a 5-year employment requirement obligation. A comparable 3-year requirement for State school graduates with the Federal obligation would no longer be required under our proposal. Student incentive payments, which are accepted by only a small number of students, would no longer be necessary to ensure a Federal commitment from each individual. Therefore, we would also propose to phase out the Student Incentive Payment Program and begin reprogramming these funds to increase annual, direct payments of up to $400,000 for each school. While H.R. 4200 also contains an attempt to address the current ineffectiveness of the Student Incentive Payment Program, it falls short of resolving the basic problem. The current service obligation cannot be enforced in practice. Substantially less than half the current graduates are committed to respond to national mobilization needs. H.R. 4200 would continue a cumbersome and ineffective administrative burden.

Concurrently, we are pursuing with the States a more economical use of training resources through sharing of ships. Consistent with congressional direction, we have asked the States to participate in a study to ensure effective development of the operational aspects of this proposal. By fiscal year 1989, this work should be completed, and we anticipate a plan which, in accordance with 1988 appropriations, will be prepared for the Secretary's approval prior to implementation. Meanwhile, our budget proposes an overall level of $8 million for State marine school support, which is based on the premise that the schools and MARAD will be able to implement a school ship-sharing plan. I would like to urge the Subcommittee to include in its bill the Administration's proposals for the State school program along with our requested $8 million funding level.

Another important initiative is the consolidation of the funding and the responsibility for the RRF within MARAD in order to assure a supply of merchant ships during national emergencies and adequate to the Navy for supply of the armed services in time of national emergency. This action is pursuant to the requirement in Public Law 100–202. In addition to the RRF, MARAD also has a major role in assuring the availability of active U.S.-flag vessels, foreign-flag U.S.-owned vessels, allied ships, and ships in the National Defense Reserve Fleet (NDRF). Because these sources cannot provide the right number and types of ships on time to the ports of embarkation during the early phases of mobilization, it was determined essential to the supply of overseas combat operations that a number of commercial vessels under Government control be in advanced readiness at dispersed locations. MARAD and the Navy, in accord with DOD/Navy contingency requirements, have thus been building a Ready Reserve Force to meet the projected shortfall in surge shipping requirements. A request of $110,751,000 will enable us to maintain and periodically activate the present group of ships and increase the RRF toward a goal of 108 ships in 1989. Funding for this program has resided primarily with the Navy from 1982 through 1988; however, beginning with fiscal year 1989 and beyond, the Administration proposes that RRF funding be authorized and appropriated to MARAD.

Overall RRF requirements are determined in accordance with DOD/Navy planning guidance which takes into account MARAD data on present and projected merchant ship availability from all sources as measured against the sealift requirements of the various military services. The RRF has been building up since the program's initiation in 1976 and has a current planning goal of 120 ships in 1991. Ships are added to the fleet through direct acquisition from commercial sources and upgrading of already owned Government vessels acquired as trade-ins through MARAD's 510(i) scrap program. $35,400,000 is requested primarily for seven additional ships in 1989. Once ships are in the fleet, costs are incurred for their maintenance at high readiness levels. They must also meet the requirements of the U.S. Coast Guard, American Bureau of Shipping, and other regulatory bodies. Forty-nine of the 101 ships estimated for 1988 are outported at sites other than the three NDRF sites. These ships, outported for strategic purposes, incur additional commercial berthing costs. These maintenance and berthing costs are estimated at $72,192,000 in 1989. Based on Navy planning requirements, the budget provides $1,183,000 for one ship activation and deactivation, which is necessary to test the ability of MARAD to meet the 5- or 10-day response for breaking out a vessel, conducting sea trials, and arriving at a designated port. While this is an unusually low level of activations, the President's budget assumes increased funding for ship activations in the out years. Finally, $1,976,000 is requested to continue special programs related to the Ready Reserve Fleet. While we prefer the structure of our request, H.R. 4200 has very similar objectives with regard to the RRF. I would be pleased to work with the Committee to explore ways in which we can agree on specific language.

In addition to the above major program and funding areas, we are requesting increased funds for heating system renovations and other facility repairs at the U.S. Merchant Marine Academy, continuation of the National Defense Reserve Fleet facilities program, and additional funds for technical and program studies. We note that H.R. 4200 provides $2 million for R&D activities. Our request presently provides for a like amount for technical studies.

Heating distribution systems at the U.S. Merchant Marine Academy need rehabilitation in order to assure reliable operation and fuel savings. The existing system is 45 years old and will either have to be repaired or replaced. Further, waterfront piers and related electrical systems are badly in need of systematic rehabilitation.

Requested funds for the NDRF facilities are required to complete dredging and related mooring stakes and maintenance of the Beaumont, TX, mooring basin and levee, as well as provide a dockside crane at the James River, VA, site. Funds appropriated for this program in 1987 and 1988 are sufficient to accomplish most of the dredging. The additional funds in 1989 are primarily for follow-on work required to keep the Beaumont site operational.

An additional $1,000,000 is required for technical and program studies to allow a $2,000,000 level of funding for fiscal year 1989. This provides an ongoing level sufficient for projects which the industry would not be expected to conduct, but from which the Government would expect significant benefit. These include efforts at reducing the cost of transporting preference cargo, improving maritime safety, addressing port development issues, and supporting initiatives to increase the market share of U.S.-flag shipping.

MARAD funding provides a firm support to several cooperative efforts between elements of the Navy, Coast Guard, National Transportation Safety Board, National Science Foundation, and industry. This is consistent with our role as the Government's catalyst in commercial shipping innovations. We believe the Administration's proposal for technical and program studies reflects the best way to accomplish these goals.

Section 3 of H.R. 4200 and section 5 of our draft bill would affect the Student Incentive Payment Program for State school students. H.R. 4200 would generally impose more stringent requirements for such payments, whereas our experience with the program has compelled us to recommend that it be terminated and all graduates assume an appropriate service obligation.

Section 4 of both bills would place certain restrictions on the Title XI Guarantee Program. H.R. 4200 would temporarily suspend the program with respect to certain vessels, whereas the Administration is again requesting that title XI be phased out, reflecting the Administration's overall policy to limit Government intervention in the Nation's private lending market.

Finally, Mr. Chairman, section 6 of our draft bill would amend the Bankruptcy Code to clarify the Secretary's authority under Public Law 99-509 to foreclose on a title XI mortgage where the mortgagor is in bankruptcy. We are appreciative of the existing maritime Bankruptcy Code provisions sponsored by this Committee and are requesting continuance of this provision and this clarification amendment because of our experience with certain bankruptcy courts.

Mr. Chairman, that concludes my statement. I and my staff will be pleased to answer any questions that you or others may have.

[The prepared statement of Mr. Gaughan may be found at end of the hearing.]

Mr. Jones. Thank you, Mr. Gaughan.

At this point in time, the Chair asks unanimous consent that the following be included in the hearing record at this point: the statement of the Honorable Mario Biaggi, the statement of the Honorable Robert W. Davis, the statement by the Hon. Glenn M. Anderson and the statement of Matson Navigation Company.

Without objection, it is so ordered.

[The prepared statements of Mr. Biaggi, Mr. Davis, and Mr. Anderson follow, and the prepared statement of Philip M. Grill of Matson Navigation Company may be found at the end of the hearing.]

Statement by the Hon. Mario Biaggi, a U.S. Representative From New York, and Vice Chairman, Committee on Merchant Marine and Fisheries

Mr. Chairman, I am pleased to join you in supporting legislation to authorize appropriations for the various maritime programs of the Department of Transportation managed by the Maritime Administration (MARAD), and for certain regulatory programs of the Federal Maritime Commission (FMC).

The President's budget submission is somewhat different this year in that it recognizes the need for reform legislation for operating-differential subsidies (ODS); it reflects the Administration's decision to consolidate funding and management of the Ready Reserve Force (RRF) under MARAD; and it does not openly attempt to terminate the Federal-State maritime training relationship.

The Administration is requesting approximately $250 million for the existing ODS program. It will request an additional $25 million should its reform proposal be enacted. The Committee has extensively considered ODS reform legislation in the past, and we will continue to work to arrive at a consensus that is reasonable to all interested parties. This experience leads me to believe that MARAD's figures do not accurately reflect the reform program's cost. I am, therefore, supporting a funding level of $300 million to permit us to maintain a healthy United States-flag merchant marine and encourage currently unsubsidized U.S. operators to remain under the United States flag.

The decline of our merchant marine is by no means over. Each year, we find fewer vessels flying our flag. If something isn't done soon, we will be totally dependent on foreign-flag shipping. We must maintain a U.S.-flag merchant fleet to serve our commercial as well as national security needs. We must recognize that a subsidy program is part of a competitive program, because all of the major shipping nations provide assistance to their merchant marine in one way or another.

H.R. 4200 includes $2 million for Research and Development (R&D) as a separate and distinct line item. While the Administration has included $2 million for studies within the Operations and Training subhead, it continues to persist in deleting R&D as a function. I believe it is necessary to retain R&D as a separate entity since recent studies indicate that increased R&D funding for merchant marine and shipbuilding technology is beneficial and necessary for the industry.

After two consecutive unsuccessful years of trying to terminate the Federal-State maritime training relationship, the Administration has made an about face and is now requesting continuation of Federal support, with a number of new conditions which will require legislative or regulatory approval. In any event, I believe that this relationship—if it is changed—will not occur until we consider the fiscal year 1990 budget. By then, the Committee on Merchant Marine and Fisheries will have had time to review the legislative proposals and the cost-effectiveness of a number of changes; in particular, the feasibility of sharing training vessels by five State maritime academies.

The State maritime academies continue to be cost-effective institutions for producing licensed officers for our merchant marine; and, in recognition of this, I believe we must provide the funds to enable them to survive. They have taken some severe cuts in the past. This year, as in prior years, I believe the Administration is underfunding these institutions by at least $2 million. H.R. 4200 calls for a funding level of $10 million, and I want to make it clear that these funds are for the operation, maintenance, and fuel oil for five training vessels—and for financial assistance to the six State maritime academies.

In all other Operations and Training functions, H.R. 4200 parallels those funding levels requested by the Administration. Maritime training at the Merchant Marine Academy at Kings Point, New York is funded at about $22.8 million and should be sufficient to initiate major maintenance and repair projects. Additional Training funds are set at about $1.3 million. The total for all related Education and Training expenses equals $34.021 million. Other Operating Programs expenses are set at $27.780 million.

National Security Support Capabilities are funded at $123.050 million, and $110.8 million is authorized to finance the Ready Reserve Force. This is necessary because of the Administration's decision to consolidate funding and management of the RRF under MARAD. Funding for this program has been within the Navy budget, and its transfer does not represent an overall increase in the Federal budget. Actually, through fiscal year 1981, funding for maintenance costs to keep RRF vessels in a high state of readiness was in MARAD's budget. It has only been since 1984, when the Navy began purchasing privately-owned vessels for the RRF, that questions of responsibility, control, and the related budget authority have been raised. I am pleased to see that the Administration has arrived at a rational and relatively simple solution based on the historical involvement of MARAD in operating the National Defense Reserve Fleet (NDRF) and the RRF, a subset of the NDRF.

The level of funding authorized in H.R. 4200 for the Federal Maritime Commission parallels the Administration's request of $15.150 million. I believe this will be noncontroversial.

Last year and again this year, the Administration is proposing that no title XI loan guarantee commitments be made and that this program be permanently terminated. Last year, we rejected both of these proposals; and will, in all likelihood, reject them again. I believe that this loan guarantee program is an essential program to help build vessels in U.S. shipyards. It is a program that helps build ships—similar to the Federal Housing Administration's insurance program and the Veterans Administration's guarantee program that are essential to building homes. All of these programs have had their ups and downs, but they are essential to our economy. Reasonable changes to flatten out the wild fluctuations are always welcome, but simple termination is not in the national interest.

Finally, H.R. 4200 makes certain changes in the Student Incentive Payment (SIP) Program. These provisions were included in my bill (H.R. 953) last year, which was passed by the House. The provision eliminates the possibility that a cadet at a State academy could receive a windfall $2,400 in SIP funds—without entering into an agreement for reserve status.

I believe this bill is reasonable, cost-effective, and consistent with our desire for budgetary restraint. Clearly, it deserves the support of all who want to see an economically and militarily viable United States-flag merchant marine.

STATEMENT OF THE HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN AND RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Taking the Chairman's lead, I also want to welcome representatives from the Administration, the Federal Maritime Commission, and the State Maritime Academies.

With respect to the MARAD budget, I am pleased to see some, although small, increases in the ODS account. It is at least some recognition by the Administration that an ODS program is important and essential to our Nation's overall defense strategy. H.R. 4200, the authorization bill which I have cosponsored, would add additional funds to the Administration's proposal to reflect what I perceive as a funding gap between the various ODS bills in our Committee and the Administration's legislative program.

I want to extend a personal welcome to the panel representing the State maritime academies. I am sorry that Admiral McNulty, Superintendent of the Great Lakes Maritime Academy, could not be here today. Mr. Chairman, last week I received a letter from the Admiral which outlines clearly and concisely the problems facing our maritime academies. It is perhaps the best and most articulate summary of their needs which I have seen yet. Mr. Chairman, with your permission and Admiral McNulty's, I would ask that it be included in the formal hearing record. I hope those responsible for MARAD's proposal will take the time to review this document closely and heed the Admiral's advice.

[EDITOR'S NOTE.—The March 3, 1988 letter can be found at the end of the hearing.]

Thank you, Mr. Chairman.

STATEMENT BY THE HON. GLENN M. ANDERSON, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. Chairman, I am pleased to be a cosponsor of H.R. 4200, a bill that would authorize appropriations for the Maritime Administration as well as the FMC.

As we review MARAD and FMC authorization legislation, let us not forget the fine work of the Merchant Marine and Defense Commission and its recommendations. The Commission made it very clear on the important role MARAD and the FMC must play in reversing this country's maritime decline. On the one hand, MARAD must do everything in its power to ensure that we will have enough ships for emergency sealift purposes, an effective shipyard mobilization base, and an adequate number of seafarers coming out of our Federal Maritime Academy as well as our State maritime academies.

Regarding the FMC, I hope that it will continue the strong action that it has been taking to level the playing field with respect to ocean transportation and maritime-related services. Its recent action against the Taiwanese is an example of effective action taken by the Commission with respect to unfair practices and restrictions by our trading partners. This effective enforcement action should not be an aberation however. It should be pursued consistently when subtle discussions and negotiations fail.

Mr. Chairman, I believe H.R. 4200 gives both MARAD and the FMC the resources they need to carry out their respective mandate. I look forward to today's testimony which I am confident will focus on some very important issues to this Subcommittee.

Mr. JONES. Mr. Gaughan, does anybody on your panel want to testify?

Mr. GAUGHAN. I don't believe so, sir.

Mr. JONES. The President's Commission on Merchant Marine and Defense, on which you serve, has recommended that the President issue a major and comprehensive executive order on maritime policy. What progress, if any, has been made in achieving this recommendation, and is it likely that the President will take such an action?

Mr. GAUGHAN. Mr. Chairman, the Commission received a letter from General Colin Powell of the National Security Council, dated March 15, indicating that the National Security Council was sending out the Commission's recommendations for comment and review by the appropriate Departments, and that they would be back in touch with the Commission. That indicates to me that there is, in fact, work now under way. At this point, I can't predict when it would be, but I do think you would see a statement soon.

Mr. JONES. In other words, Mr. Gaughan, I think you indicated there is some movement in this direction within the Administration.

Mr. GAUGHAN. That is correct, Mr. Chairman.

Mr. JONES. That's good.

What lessons can we learn from the bankruptcy of United States Lines? Is it fair to say that this episode shows us that a major U.S.-flag liner company equipped with the most modern ships, purchased at a competitive price in foreign shipyards, still must have operating-differential subsidy if it is to stay in business for very long?

Mr. GAUGHAN. Mr. Chairman, I wouldn't necessarily say that it is a foregone conclusion that ODS was needed. If the only factors involved in that bankruptcy had been what you stated, that might be true, but there were many other factors that led to the cash drain on U.S. Lines.

Mr. JONES. What were some of those factors?

Mr. GAUGHAN. Well, certainly the conventional wisdom is that U.S. Lines' Econ ships were a good idea at the wrong time, and I mean by that, at the time they were conceived, the cost of fuel oil was continuing to rise, and they were thus designed for a rather slow service speed. If the cost of fuel had stayed at that level and the service speeds of other fleets had come down, they would not have found themselves at a competitive service disadvantage.

That's one example. There were also large financial commitments that were taken on. Operating in the world maritime environment of the time, which was very depressed, they were, in fact, not able to generate the capital to pay their costs.

Mr. JONES. All right, sir. Could you give us a brief report on your recent negotiations with the Soviets about a possible maritime agreement?

Mr. GAUGHAN. Yes, I can, Mr. Chairman.

We met with this delegation from the Soviet Union during the period of March 7 through 10. As I have reported previously to this Committee, it has consistently been a position of the United States Government that the reentry into a formal maritime agreement with the Soviets would have to have mutual benefits to each country. We continued our discussions in attempting to address the Soviets' desire for increased port access and cross-trading, as well as the issue of cargo sharing.

While we made progress, we did not arrive at an arrangement that was acceptable to both sides, and we are presently awaiting to hear from the Soviets as to whether they wish to pursue the discussions.

Mr. JONES. What is the Executive Branch going to do about next fall's UNCTAD conference in Geneva? Will the U.S. participate, and what will be the big issues, and how will the U.S. position be formulated?

Mr. GAUGHAN. Mr. Chairman, the Administration is at the present time formulating a position on that. Let me comment further on that, if I could. The United States is not a signatory to the UNCTAD Code. Not being a signatory, there have been questions raised as to whether we should even be allowed to participate in a conference on it. Certainly, the sentiment has been that we should be allowed to participate. But those questions are presently being addressed through an interagency group with the Department of State and the Department of Transportation in the lead.

I would be more than glad to provide a more definitive statement of where we are for the record.

[The following was submitted:]

UNCTAD CONFERENCE IN GENEVA AND UNITED STATES' PARTICIPATION

All states have been invited to attend the Conference. The associated question is whether a non-contracting state, such as the United States, should have the right to vote on any amendments to the Convention. We take the view that we should be able to vote, but that question has yet to be resolved.

It now appears that the most important question of substance at the Conference will be the expansion of the scope of coverage of the Code; e.g., to include regulation of the behavior of non-conference carriers. We also heard developing countries express an interest in applying cargo-sharing concepts to the bulk trades. To the extent possible, and consistent with our own best interests, we will attempt to work for a common line with other developed maritime nations to be advanced in the negotiations.

Mr. JONES. Is MARAD involved in any Executive Branch decisions as to what should be done if the Trans-Panama pipeline is shut down? And is it your belief that there is sufficient Jones Act-qualified tonnage available to carry Alaskan North Slope oil through the Canal in the event of a pipeline interruption?

Mr. GAUGHAN. Mr. Chairman, there have been efforts and discussions under way within the Executive Office of the President in regard to the Panama situation. The Maritime Administration, through the Department of Transportation, has, in fact, been called upon to provide our expertise in shipping matters as part of those discussions. And so we have, in fact, been participants.

Our analysis of available U.S. Jones Act-qualified tonnage is that, if there is sufficient tonnage available should the pipeline close down and that oil has to move through the Canal. I say that with one caveat, Mr. Chairman. The availability of tonnage changes day-to-day as vessels are picked up on spot charters, or if you were to have a casualty, or whatever. But it does appear, based on the amount of oil that would have to move, that there should be sufficient available Jones Act-qualified tonnage. That is not even considering the additional tonnage that might be available if there were a waiver of the construction-differential subsidy (CDS) requirement that would allow those vessels into the trade. I don't have a cost estimate of what such action would entail, but the cost would probably be fairly high.

Mr. JONES. All right, sir.

Your budget request for this year indicates that, without ODS reform, about $248.9 million would be needed to satisfy obligations under that program. This would continue the decline of ODS payments in recent years.

Now, if U.S. Lines had not gone bankrupt, and assuming ODS reform this year, is it safe to assume the funding requirement for ODS for fiscal year 1989 would be at least $300 million?

Mr. GAUGHAN. I'm going to wait and see if one of my staff corrects me, but I don't believe so, Mr. Chairman. The number that is in our budget anticipates the availability of those U.S. Lines contracts to others. And so, whether they were operating or not, it would be the same number.

Mr. JONES. All right, sir. Mr. Lent.

Mr. GAUGHAN. Somebody just told me that was right, Mr. Chairman.

Mr. JONES. Good. Mr. Lent.

Mr. LENT. Thank you, Mr. Chairman.

Mr. Gaughan, the Committee is pleased with the President's budget insofar as it recommends that the Maritime Administration be the lead agency for the Ready Reserve Force. We are prepared to take whatever steps are necessary to implement this accommodation.

I understand, however, that the Administration intends that your Department and the Defense Department implement a new agreement covering the Navy's role and their ability to use the RRF.

Can you just take a minute to explain what this agreement might cover?

Mr. GAUGHAN. Certainly, Mr. Lent.

This memorandum of agreement is aimed at establishing the operating conditions and the roles of both MARAD and the Department of the Navy. And it would cover things such as the use of these vessels for exercises, contingency operations, and so forth. It also would cover the relationship between our agency and the Department of Defense on the size of it, the location of the assets, and so forth.

We had a memorandum of agreement in effect up until we had our rather heated or spirited discussions. I anticipate a new agreement will be similar to what was in place in the past.*

I might add, Mr. Chairman, that Admiral Piotti and I have already been talking on this subject, and I believe our next meeting is Monday to continue working towards this agreement. And it is going very well, sir.

Mr. LENT. Going well. We're glad to hear that.

Can you give us some idea when we might see that agreement?

Mr. GAUGHAN. We are under administrative guidance from OMB to try to complete this within 60 days. So you're talking March or April. I think I'll be in a better position to give you something more definitive after our meeting on Monday.

Mr. LENT. A few years ago, your predecessor, Admiral Shear, testified before this Committee that MARAD had completed a study of a ship-sharing proposal for the State schools, and had determined that it would not work, and that the agency had decided not to implement it.

My question is, Would you be able to make a copy of Admiral Shear's study, or that study that he referred to, available to this Committee?

Mr. GAUGHAN. Mr. Chairman, that has been an illusive study to me. I asked that same question and I, in fact, have not been able to find it. And the State superintendents may prove me wrong, but I honestly have looked for it and——

Mr. LENT. I think they may have some people here, and if there is one, it should pop up shortly.

Mr. GAUGHAN. Yes, sir.

Mr. LENT. Okay. Well, in any event, what has changed in the last few years to make the Administration change its mind and now decide to try to implement a ship-sharing program?

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*Editor's Note: The October 26, 1982 Memorandum of Agreement between the Department of the Navy and the Department of Transportation can be found at the end of the hearing.

Mr. GAUGHAN. Well, Mr. Lent, first of all, we missed, I think, a very critical middle step in there. The last two budgets on which I have appeared before you have called for elimination of direct Federal support of the State academies. This budget today does not call for termination of that support, but, in fact, recognizes that there is a legitimate need for a cadre of trained merchant marine officers. But as part of that, there also is a recognition that, in providing those Federal resources, there ought to be an obligation to the United States in a national emergency. Additionally, in the discussions that surrounded the funding of the replacement ship for the New York State Academy, the Congress indicated that no further funds would be appropriated for training ships without a ship-sharing plan. I think it is something that can be worked out and should be explored. We are attempting to do that in a very open and straightforward way with the State academies. We have had the superintendents in. We sent them a draft of our operating study before we even began, and we are continuing to work with them.

Mr. LENT. Just one last item, Mr. Chairman.

The fiscal year 1988 Continuing Resolution contained language calling on your agency to do a ship-sharing plan, and I wondered whether your agency has started or completed that plan.

Mr. GAUGHAN. It is not completed. But, as I just mentioned, we have, in fact, shared our initial outline with the State academies, gotten their comments back, and are looking to continue to work on it. The goal is to have it completed by the end of the fiscal year.

Mr. LENT. Thank you. I have no further questions.

Mr. JONES. Mr. Studds.

Mr. STUDDS. Thank you, Mr. Chairman, and thank you for the courtesy of letting me sit in. I guess it's not a surprise to you that I am here, but probably to you, Mr. Gaughan.

Mr. GAUGHAN. I'm glad to see you, sir.

Mr. STUDDS. It's nice to see you.

Following up on Mr. Lent's question. As I understand it, you are asking us for the authority to run two vessels, but you can't find the piece of paper, is that right? This study, which has been requested, as I understand it, by the State academies, their testimony with reference to the study a few years ago, in your Administration, which Mr. Lent referred to in the testimony of the presidents of the academies to follow you, it says, "The study referred to is on file in the Maritime Administration's library." That might give you a hint. "Release has been requested under the Freedom of Information Act. To date it has been denied."

Is that correct?

Mr. GAUGHAN. I don't have a FOIA appeal on my desk, sir.

Mr. FRIEDBERG. Mr. Studds, the studies that have been asked for here are the studies that Mr. Lent referred to.

Mr. STUDDS. That is correct, yes.

Mr. FRIEDBERG. Insofar as Admiral Shear's decision not to pursue——

Mr. STUDDS. I understand.

Mr. FRIEDBERG. We have no study that indicates there is not a technical feasibility of ship-sharing.

Mr. **Studds**. Wait a minute. What about the studies to which Mr. Lent referred that have been requested by the academies. Is that the one that Mr. Gaughan can't find anywhere in his Bureau?

Mr. **Gaughan**. I've never seen it, Mr. Studds.

Mr. **Studds**. I didn't ask you that. Where are they?

Mr. **Friedberg**. Sir, we have staff papers, but we have no published studies at this stage of the game.

Mr. **Studds**. The study to which—I don't care what you call it, what shall we call it, the document—to which Mr. Lent referred clearly exists, is that correct?

Mr. **Friedberg**. No, sir. What Mr. Lent referred to was a completed study of a ship-sharing proposal that had determined it would not work.

Mr. **Studds**. All right. Let's go back and refer to the documents you have——

Mr. **Friedberg**. And that's the one I'm talking about.

Mr. **Studds**. Well, all right. You're trying to parry the request by saying there's no such document. You know perfectly well what they're asking for, and, in fact, you have denied it to them. I have the letter.

Mr. **Friedberg**. That is correct.

Mr. **Studds**. Let me read to you from the letter.

This happens to be to the New York college, but it could be to any of them. [Reading:] "This is in response to your request under the Freedom of Information Act for a copy of a report on the subject of ship-sharing. We have searched our files and have been unable to find a report on the subject." Ah ha! "We do have a number of internal documents. However, these documents are exempt from disclosure."

And you won't give those documents. That means we're playing games. You know what we're talking about. You know what they're talking about. You know what Mr. Lent is talking about. You have the documents, and you've denied them to the academies, is that correct?

Mr. **Friedberg**. The documents that are referred to as not being available are denied to the academies, yes, sir.

[Editor's note.—March 18, 1988 letter from MARAD to the State University of New York Maritime College can be found at the end of the hearing.]

Mr. **Studds**. Now, would you make them available to this Committee?

Mr. **Friedberg**. I think that's a matter I can't answer.

Mr. **Studds**. Who do you suppose could?

Mr. **Friedberg**. I just don't know.

Mr. **Studds**. Well, you have the Administrator here.

Mr. **Gaughan**. If they are, in fact—and I have never seen them—OK, I will look at them——

Mr. **Studds**. I'm sure you have the authority to request them.

Mr. **Gaughan**. I'm sure——

Mr. **Studds**. I doubt they'd be denied to you.

Mr. **Gaughan**. I have no doubt that they will not be denied to me.

Mr. **Studds**. Mr. Chairman, I would like to ask that this Committee formally request those documents.

Mr. JONES. Is it the consensus of the Committee?

Is there any objection?

Mr. LENT. I would ascribe to the——

Mr. STUDDS. In fact, I'll give Mr. Lent credit for the suggestion initially.

Mr. JONES. Without objection, the record will show Mr. Lent asked that a copy of the documents——

[Laughter.]

Mr. JONES [continuing]. Be made available to this Committee.

Is that agreeable, Mr. Lent?

Mr. STUDDS. And if they are not forthcoming, I will be prepared to go along with Mr. Lent to take the next step to get them.

Mr. JONES. Subpoena?

Mr. STUDDS. You've read my mind.

[The material follows:]

MARAD INTERNAL DOCUMENTS ON TRAINING SHIP SHARING

Subsequent to the hearing, the Maritime Administration submitted three internal documents on the subject of training ship-sharing to the Committee. These documents are:

1. Economic Feasibility of Consolidating Federally-Funded Activities at the State Marine Schools—June 1981

This study concluded that "Federal costs over the six year period (1982–1988) would be almost $30 million less under the two-schoolship alternative than under the existing five-schoolship arrangement" (p. 39).

2. State Maritime Academy Sea Training Proposal (Five State "Salt-Water" Academies—July 1982.

This Proposal addressed the alternative of two shared training ships and the provision of five small training craft (30-cadet capacity) for use during the academic year. "The Federal savings in the first five years resulting from the reduction of the 5 training ships to 2 active ships would more than offset the construction cost (almost $22.3 million) of 5 small training craft." (Executive Summary.)

3. State Maritime Schools Training Ship Replacement Alternatives Study—February 1986

This study of four alternatives, one of which was ship sharing makes no recommendation. A cost comparison of the four alternatives shows that "Alternative 4—ship sharing—is the most attractive alternative, cost wise, and would provide a newer ship to replace four existing ships in the shared arrangement." (Executive Summary, page v.)

All of these papers support the technical feasibility and the substantial cost avoidance of future ship replacement in a reduction of the number of ships maintained for active operation by each of the five State academies for their individual two-month annual training voyages.

[EDITOR'S NOTE.—The March 29, 1988 letter from the Maritime Administration can be found at the end of the hearing.]

Mr. STUDDS. Let me ask you, the puzzling thing here— again, Mr. Lent made reference to this as well—is the sudden about face on the part of the Maritime Administration with respect to the State academies. The past two years you've come in here and told us you didn't want to spend a penny for them. Now, you've come in here with a whole new set of proposals which would make their life somewhere between difficult and impossible. It raises, certainly, the question of whether what is changed is your tactics rather than your goals, I may say. But leaving that aside for a minute, in response to Mr. Lent a moment ago, you said what accounts for the difference, I'm not quoting you verbatim, but I think it's generally correct, was a recognition of the need for a cadre of trained officers.

What in the world suddenly happened between last year's budget and this to bring that recognition to you?

Mr. GAUGHAN. Mr. Studds, I would like to think that what caused that was my persistence in arguing with other parts of this Administration that, in fact, there was a need for funding for the State schools.

Mr. STUDDS. That makes me feel much better. I appreciate that. And I recognize there are other parts of the Administration.

The study to which you referred—this is a different study now, don't panic over there—one which I gather is ongoing with respect to ship-sharing.

Mr. GAUGHAN. That is correct.

Mr. STUDDS. Is that a study of the feasibility and costs of such a proposition, or is that a study of how to go about implementing one?

Mr. GAUGHAN. It's how you go about implementing one. It's an operating study.

Mr. STUDDS. What happened to the first study?

Mr. GAUGHAN. Pardon me, sir?

Mr. STUDDS. What happened to the first logical step, of finding out whether it is feasible and cost-sensible, or not?

Mr. GAUGHAN. Because our preliminary work indicated that under a ship-sharing program there would be some cost savings.

Mr. STUDDS. Do you have an analysis of the relative cost between ship-sharing and the current plan?

Mr. GAUGHAN. Well, whatever we have I'll be pleased to share with you.

Mr. STUDDS. Well, let me ask you, do you have such a thing? In fact, I did ask you that.

Mr. GAUGHAN. Well, this——

Mr. STUDDS. I thought this was a very cost-sensitive Administration. That's why I'm concerned.

Mr. GAUGHAN. Well, it is, Mr. Studds, but the primary costs come from replacement of the existing school ships or ship-sharing. I have estimates of what the cost of the replacement program, remaining at five, would be versus a program where these vessels get greater use than two months a year at sea, and, in fact, provide a better return.

Mr. STUDDS. Let me ask you this. Before you leap into—or you've already asked us to leap into a program that may cost more, may cost less, and you have no documentation to that effect. Have you looked at the additional cost in the event you went to ship-sharing MARAD's permanent crew?

Mr. GAUGHAN. Yes, we have.

Mr. STUDDS. Have you looked at the additional cost of repairs previously done by the State academy cadet and civilian labor force?

Mr. GAUGHAN. Those are all elements that have been looked at or are being looked at as part of this study that we are doing currently.

Mr. STUDDS. Wait a minute, wait a minute. I thought you already decided to go ahead with it. So, presumably you've made these——

Mr. GAUGHAN. Sir, in going ahead with it, we are, in fact, addressing costs that are associated with it also.

Mr. STUDDS. You mean to tell me the Reagan Administration would proceed with a recommendation before it found out whether it costs more or less?

Mr. GAUGHAN. Well, as hard as that may——

Mr. STUDDS. It certainly is, in this Department, anyway.

Mr. GAUGHAN. I'll give you a conservative estimate of $35 million or so on replacement vessels; a ship-sharing program is going to cost less.

Mr. STUDDS. Let me just say, I would appreciate, and I think the Committee would, as well, although I don't presume to speak for them—you providing this Committee with all the information you have to date with respect to your best assessment of the relative cost of ship-sharing versus the current arrangement. We have some preliminary staff work, and the Committee suggests it will cost considerably more to go to ship-sharing if you take into account, honestly, a variety of factors that you have to take into account. We would certainly like to see what you have.

And finally, Mr. Chairman, if I may ask one more question.

With respect to the proposal that all of the graduates of the academies be required to join the Merchant Marine Reserve of the Navy, I guess that's the way to put it, a couple of questions. What is the logic of that, and how does it differ from requiring all graduates of State academies to join the State National Guard, for example?

Mr. GAUGHAN. The requirement is tied to the providing of the school ship.

Mr. STUDDS. It's what?

Mr. GAUGHAN. It is tied to the requirement for the availability of the school ship.

Mr. STUDDS. Some Federal aid, in other words?

Mr. GAUGHAN. That is correct.

Mr. STUDDS. Well then, should all students who receive substantial Federal aid be required to serve in the Merchant Marine Reserve? Grants, national student loans, et cetera? There is a lot more money going there than there is here.

Mr. GAUGHAN. I certainly wouldn't propose anything.

Mr. STUDDS. Well then, what's the difference? They get substantial Federal aid. These kids get less Federal aid, but you want a requirement on these and not on them.

Mr. GAUGHAN. Mr. Studds, these particular students are being trained to obtain licenses and positions in the seagoing merchant marine.

Mr. STUDDS. Yes.

Mr. GAUGHAN. There is an identifiable need for a cadre of personnel, particularly in a wartime or a national emergency situation. And this would be a way of assuring their availability, at least for some period of time.

Mr. STUDDS. Actually, it's a big to-do about nothing. What is the current status of the Merchant Marine Reserve?

What is the Administration's request for funding it, let's put it that way.

Mr. GAUGHAN. Well, there is an ongoing program within the United States Navy Reserve.

Mr. STUDDS. At what level is it funded?

Mr. **Gaughan**. I have no idea, sir.

Mr. **Studds**. Come on. I know you know.

Mr. **Gaughan**. I do not know the answer to that, sir.

Mr. **Studds**. Anyone at the table? Do you want to take a guess? You're telling us this is a vitally important national program, and you absolutely insist that all the graduates of the State academies participate in it, and you don't know anything about it?

Mr. **Gaughan**. I don't know how to answer that, Mr. Studds.

Mr. **Studds**. That bothers me, to say the truth. I mean, it's a major component of your position and of your testimony.

Mr. **Gaughan**. There is an existing program in place that has those individuals with service obligations identified within the Navy so that if a mobilization were to come they would be available.

Mr. **Studds**. Have you checked whether the Navy happens to think the same way you do about this?

Mr. **Gaughan**. I'm not sure what you're asking me.

Mr. **Studds**. Is this the Navy's position as well?

Mr. **Gaughan**. Well, this budget was coordinated through the Executive, and it is signed off not only by us but by the Department of Defense.

Mr. **Studds**. The requirement, the proposal that would require all State academy graduates to participate in that reserve program, is that the position of the Navy? Has that been cleared with the Navy?

Mr. **Gaughan**. Well, they will be up here after me. I won't speak for them, but I believe that's what their answer is going to be, sir.

Mr. **Studds**. Am I correct that that program is zero funded, at the Administration's request?

Mr. **Gaughan**. I don't even know what program you're specifically talking about.

Mr. **Studds**. The one, the reserve program you insist that these kids participate in in order to qualify, in order to graduate. I didn't bring it up, you did.

Mr. **Friedberg**. Mr. Studds, you are referring to the Merchant Marine Reserve, U.S. Naval Reserve, a component of the Naval Reserve that has been specifically designed for merchant marine officers, for their availability as trained officers in the operation of merchant ships in conjunction with military forces.

Mr. **Studds**. Exactly.

Mr. **Friedberg**. This program was created by the Navy in cooperation and together with the Maritime Administration, and dating back quite a number of years, as the specific training base for, as I say, merchant marine officers——

Mr. **Studds**. Exactly. Now, my question is, at what level is it funded?

Mr. **Friedberg**. I'm afraid I can't answer that. That would have to come from——

[The material follows:]

FUNDING LEVEL OF MERCHANT MARINE RESERVE, U.S. NAVAL RESERVE

The Merchant Marine Reserve, U.S. Naval Reserve is funded at $2 million.

Mr. STUDDS. When was the last time it met? Does it really exist, except as you described it.

Mr. FRIEDBERG. It certainly exists.

Mr. STUDDS. Where?

Mr. FRIEDBERG. In an office in the Chief of Naval Reserve——

Mr. STUDDS. Right. What about its members?

Mr. FRIEDBERG. There are, I understand, several thousand members who are individual ready reservists.

Mr. STUDDS. What do they do?

Mr. FRIEDBERG. They——

Mr. STUDDS. They stand by, right?

Mr. FRIEDBERG. Basically, they are a reserve. That is correct.

Mr. STUDDS. Right. And that's all they've ever done in recent years, right?

Mr. FRIEDBERG. There are——

Mr. STUDDS. But they don't meet, they don't train, they don't exist except on paper?

Mr. FRIEDBERG. They are individual ready reservists. This is a very unique program in the Naval Reserve, sir.

Mr. STUDDS. It certainly is, and the answer to my question, incidentally, is zero. That is the request for the funding of the program, and has been for awhile.

I just suggest that it's a very large to-do about relatively little, especially since you, yourselves, don't seem to be very familiar with the program.

Mr. GAUGHAN. I think we're very familiar with it, Mr. Studds, and just by some of your own statements it seems like it's a relatively minimal obligation that these students would take on.

Mr. STUDDS. Aha, so you have no objection to our ignoring it.

Mr. GAUGHAN. I will hold my tongue, sir.

Mr. STUDDS. Okay. I apologize for being flippant.

You know, some of us feel very strongly about these academies, and this Committee has studied them.[1] The longest title I ever had was the chairman of that ad hoc committee on whatever it was, over a decade ago, traveling all over the country, looking at these academies. And we concluded, as I think anybody with common sense would, that if you set out to structure maritime education and training in this country, you'd never come up with the system we now have. It grew like Topsy, six different State academies, a Federal academy at Kings Point. But somehow it sort of works. And why we should continually muck around with it, and why the Administration comes here two years in a row saying obliterate it, no funding, then comes in with a whole bunch of recommendations that are just very emotionally opposed by all six academies, is beyond me. It isn't particularly helpful, I don't think, and it's jeopardizing that which, for all of its quirks and idiosyncrasies, seems to have served this country pretty darn well. And that's the source of my frustration after all the years.

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[1] See Committee on Merchant Marine and Fisheries Committee Prints Serial No. 94-D, Report of the Ad Hoc Committee on Maritime Education and Training on "Principal Institutions in the United States Which Train Individuals for Initial Licensing as Merchant Marine Officers"—and Serial No. 95-E, Oversight Report by the Ad Hoc Select Subcommitte on Maritime Education and Training on "The Federal Government's Role in Merchant Marine Officer Education".

I think once in awhile something that works should be left alone, and you should go on to work on something that doesn't.

Mr. GAUGHAN. Well, Mr. Studds, I have the same frustration, because I have been fighting to try to come up with a rational program. Quite frankly, I think that at least this one, whether it is a change from what it was, has some rationality to it, and is supportable. I'm a little frustrated that, with all the issues that face this industry, we spend all this time on an emotional issue, but don't get on to some of the other things, sir.

Mr. STUDDS. Oh, I've got a long list.

Thank you, Mr. Chairman. I apologize for imposing on your time.

Mr. JONES. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Administrator, we're going to spend a little more time on it.

Mr. GAUGHAN. Yes, sir.

Mr. COBLE. I'm concerned about this. The Gentleman from New York raised the question, the Gentleman from Massachusetts extended the question, and this concerns the evasive study. Now, if you all would come in here and drop five or six of these studies on the table, I think probably a little attention would be directed to it. But I'm confused, as is the Gentleman from New York, and as is the Gentleman from Massachusetts, as to why we're having so doggone much trouble getting our hands on the study.

Now, it appears to me that somebody was dispatched to conduct a study on a ship-sharing proposal. It was then, presumably, concluded that it wouldn't work. Well, now, if I'm following you correctly and, believe me, I'm confused as well, now I'm told that perhaps maybe it will work and perhaps you are going to implement it.

Now, Mr. Chairman, am I reading it correctly now that this—and I will use the word illusive or evasive study—is it going to be presented to us? Are we going to be able to examine it?

Mr. JONES. I believe Mr. Lent made that consent request.

Mr. COBLE. Mr. Administrator, is that the idea, that you are going to be able to locate this study and then get it to us?

Mr. GAUGHAN. I will go back and, only subject to somebody telling me that I cannot do it, yes, you will have it. You know, it is going to be a staff document, I am sure. But I'll be pleased——

Mr. COBLE. You know, I would take that, too, Mr. Gaughan, except for the different exchange here, and all of a sudden it's taking on all sorts of proportional importance. My curiosity has been awakened now, and I don't want to be suspicious, Mr. Chairman. But, Mr. Gaughan, is there some reason why it should not be ventilated or illuminated to the light of day?

Mr. GAUGHAN. You know, Mr. Coble, if it had happened on my watch, I could probably give you an answer to that. But that's literally before my time. I will, in fact, find out what these staff documents are. As far as I'm concerned, you can have them.

Mr. COBLE. I don't mean to be interrogating. I am rather asking for my own information. So, I will look forward to——

Mr. GAUGHAN. Yes, sir.

Mr. COBLE [continuing]. Seeing it.

Thank you, Mr. Chairman.

Mr. JONES. Mr. Miller.

Mr. MILLER. No questions.

Mr. JONES. That concludes the testimony of this panel, I believe. I want to thank you, Mr. Administrator, Miss Chao, Mr. Creelman, and Mr. Friedberg. Thank you all, very much, for your attendance here this afternoon.

I am sure several Members have some questions, so, without objection, I ask unanimous consent that they be submitted for the record and made a part of the record.

Without objection, so ordered.

[The questions and answers may be found at the end of the hearing.]

Mr. JONES. The next panel of witnesses consist of the Honorable Edward J. Philbin, Acting Chairman of the Federal Maritime Commission, accompanied by Mr. James J. Carey, Vice Chairman; and Mr. Robert D. Bourgoin, General Counsel.

Mr. Philbin, you are recognized.

STATEMENT OF HON. EDWARD J. PHILBIN, ACTING CHAIRMAN, FEDERAL MARITIME COMMISSION; ACCOMPANIED BY JAMES J. CAREY, VICE CHAIRMAN; AND ROBERT D. BOURGOIN, GENERAL COUNSEL

Mr. PHILBIN. Good afternoon, Mr. Chairman and Members of the Committee.

I would like to submit my formal statement for the record and, with your permission, briefly summarize that statement.

Mr. JONES. Without objection, so ordered and appreciated.

Mr. PHILBIN. Appearing with me here today to assist in answering any questions you might have are Vice Chairman James J. Carey and Robert D. Bourgoin, the Commission's General Counsel.

Mr. Chairman, the Commission is requesting an appropriation of $15,150,000 for fiscal year 1989. This is an increase of $1,565,000 over our 1988 appropriation, and will provide a total of 224 work years of employment for the Commission.

The major portion of this increase will permit the hiring of personnel to enhance our enforcement efforts and the continued implementation of a program to automate the filing, retrieval, and analysis of ocean carriers' rates with the Commission.

As our late Chairman, Edward J. Hickey, noted when he appeared before you last year, the enactment of the Shipping Act of 1984 has caused the Commission to place much greater emphasis on the enforcement of our shipping statutes. To meet these responsibilities, we have reorganized our enforcement and surveillance operations, I have given all our investigators increased training, and integrated other staff elements since the enforcement effort.

These efforts are already bearing fruit. An example is our recent success in dealing with trade malpractices in the North Atlantic trades, which resulted, among other things, in the collection of $2 million in settlements. In addition, the carriers involved were forced to establish an effective neutral body to internally police their conduct.

The Commission has collected a total of $3,029,000 during fiscal year 1987, approximately 20 percent of the requested budget.

Another area in which the Commission has been and will continue to be very active is the combating of foreign government practices which create unfavorable conditions in our foreign trades. As a result of the Commission's intervention, it now appears that U.S.-flag carriers serving Taiwan no longer face unreasonable restrictions on the ownership and operation of certain dockside facilities and the ability to obtain terminal licenses. In addition, the Commission has successfully dealt with trade barriers in the U.S. trades with Colombia and Peru.

The Commission intends to continue its long-term efforts to implement its automated tariff filing system during fiscal year 1989. We hope to award a design and development contract this summer or fall, and to have a fully operational system late in 1989.

We are also continuing to collect and analyze data on the impact of the Shipping Act of 1984, which we must provide to an advisory commission in 1989 pursuant to the mandate of section 18 of the 1984 Act. We are obtaining input from all segments of the ocean transportation industry, and are also consulting with other Federal agencies.

Mr. Chairman, I believe that our budget request will allow us to achieve our statutory responsibilities in fiscal year 1989 with increased effectiveness and greater productivity, and I, therefore, urge its favorable consideration.

If you have any questions, sir, I shall do my best to provide the answers or have them provided by the staff.

Mr. JONES. Thank you, sir.

[The prepared statement of Mr. Philbin may be found at the end of the hearing.]

Mr. JONES. What is the status of the latest enforcement actions?

Mr. PHILBIN. Our latest enforcement actions really take two forms, sir. Some are the result of investigations by our Bureau of Investigations in concert with our Bureau of Hearing Counsel and other elements of the staff. And the others are those cases which reach us through the section 15 process and section 19 actions. The North Atlantic Trades Amnesty Program, which I mentioned in my opening statement, has been very, very successful. In addition to the $2 million settlement we obtained, we also obtained our major objective, which essentially was cleaning up the trade, stabilizing the trade, injecting into that trade, and others by reference, a real element of deterrence. We have, in fact, achieved these objectives from the intelligence we are getting back from members of the trade.

With regard to the section 19 actions, based upon investigations under section 15 and intelligence information which reaches us from the trade, we have, in fact, been successful in three instances in having the obstacles to our United States trades imposed by foreign governmental entities removed. We have not been forced to go to the point of actually imposing section 19 sanctions on those foreign governments. The very process itself, and the obvious intent of the Commission to impose those sanctions if necessary, has in every instance resulted in our removing those obstacles without going that far.

We feel it has been very successful.

Mr. JONES. All right, sir.

Are you contemplating any new enforcement actions?

Mr. PHILBIN. Well, sir, specifically there are none that I can mention. We have a number which are now winding their way through the Commission as docketed items. But I can state for you that the Commission is prepared to use all of the tools placed at its command in the statutes, to the extent necessary to remove any obstacles that we find in a trade. All of which, of course, depend on the evidence that is available to us.

Mr. JONES. When you do a section 19, does it constitute an expertise problem for the FMC because the conduct complained of could involve bulk vessel operations?

Mr. PHILBIN. Usually the problem is essentially one of evidence—the availability of evidence, the quality of the evidence, and the amount of the evidence. Of course, some of the intelligence that we receive which starts a section 19 proceeding usually comes from someone who is involved in the trade and, therefore, subject to coercion or various pressures by foreign governments, and they are loath to be identified in many cases, and there is difficulty in obtaining enough evidence. In those cases where we can find sufficient evidence, we have proceeded as quickly as possible.

Mr. JONES. All right, sir.

Mr. Lent.

Mr. LENT. Thank you, Mr. Chairman.

Mr. Philbin, the House has been working with the Senate to obtain agreement on the maritime title to the omnibus trade bill. In fact, we have a written proposal before the Senate at this time.

Have you or your staff had an opportunity to review that proposal?

Mr. PHILBIN. Yes, sir. I have reviewed the proposal personally. The staff has also reviewed it. If you wish, I can make comments on the compromise version that I've seen. That could be a little bit detailed and, if you would prefer, we would submit it to the record as you desire.

Mr. LENT. Well, for the record would be fine.

Mr. PHILBIN. Thank you, sir. We will do that.

[The material follows:]

COMPROMISE PROPOSAL

The compromise proposal referred to by Congressman Lent was subsequently superseded by several other proposals, thereby rendering comment on the initial version unnecessary.

Mr. LENT. Now, I assume that the new automated tariff filing system will ultimately result in fewer employees being required.

Will there be a need for other types of employees than those currently employed, or can you retrain existing personnel to handle the new system?

Mr. PHILBIN. I could not at this stage tell you that the overall number of people in the Commission would be reduced as a result of the Automated Tariff Filing and Information System. We will have to retain some human staffers in that entire network, primarily because of statutory requirements. However, we do believe that the number of people involved in the tariff area of the Commission's activities will, in fact, be reduced, but these people can be productively employed in other areas. For example, the enforcement area, which we are trying to build up in response to the mandates of the 1984 Act.

Mr. LENT. Will you contract out the new system?

Mr. PHILBIN. We are contemplating that the system will be operated by a contractor under the supervision of the Commission, because there are certain non-delegable duties of the Commission in the tariff area. But, in general, the system would be operated by a contractor.

Mr. LENT. Can you give us the actual personnel numbers for this system?

Mr. PHILBIN. Let me ask the Vice Chairman if he has those numbers available to him.

Mr. CAREY. Mr. Lent, let me address that. We cannot give the numbers at this time because it will really depend on who bids the system, how they bid it, and whether they would use new equipment or perhaps use existing time on their own equipment.

Mr. LENT. Well, let me ask this. Do you anticipate spending the $1 million in fiscal year 1989, and what will be the total cost of this program as finally implemented?

Mr. CAREY. Those numbers I do have, at least as they were identified in our feasibility study, and I would quite honestly tell you there that those are estimated numbers. We won't have actual numbers until the system is actually bid. But those estimated numbers are based on the total development, of which some funds have already been authorized and others are in the particular budget we are talking about now. It would be $3.5 million to put together the prototype system and get it up and running, and actually implemented. And the cost ongoing after that is estimated to be about, the operating cost would be, $82,000 a month. With a total cost over a five-year period, again estimated, of $7.3 million.

Mr. LENT. OK. Now, your testimony speaks of the various amounts of funds that the FMC collects in your enforcement efforts.

Do those amounts come to you directly at FMC, or do they go directly into the Federal treasury?

Mr. PHILBIN. They go to the General Fund of the U.S. Treasury.

Mr. LENT. OK. Chairman Philbin, just prior to the hearing, the Committee received a statement from Matson Navigation Company. In addition to supporting the MARAD R&D program and urging continuation of the MARAD title XI program, Matson has requested the Committee to eliminate the requirement that the bill of lading be posted on the vessel.

Do you have any position on this proposed amendment to the Intercoastal Shipping Act?

Mr. PHILBIN. No, sir. The Commission really has no position on that particular request. And we would have no objection to whatever the decision is.

Mr. LENT. Thank you.

Mr. PHILBIN. Thank you, Mr. Lent.

Mr. JONES. Thank you, Mr. Lent.

On the automated tariff filing system, what do you estimate the cost of this conversion to the industry, and what is the industry's reaction?

Mr. CAREY. Mr. Chairman, we don't have any numbers at this point on the cost to the total industry. I would, however, tell you that we did put together an industry advisory committee, the first ever in the history of the Commission, to help us develop the feasibility study to determine whether this system was even desirable and doable. And that industry advisory committee had some 20 members of the maritime industry, representing all facets, conferences, carriers, shippers, et al. And, as they monitored what we were putting together, their ultimate advice to the Commission was: (1) yes, they agreed with the feasibility study, and (2) they, as representatives of the industry, desired that we go forward with the system.

Mr. JONES. All right, sir. I don't believe I have any further questions, and I want to thank the group for being here this afternoon.

Mr. CAREY. Thank you, Mr. Chairman.

Mr. PHILBIN. It was a pleasure to be here.

Mr. JONES. I'll repeat again, once and for all, for the rest of the afternoon, that many Members have some questions, and I ask unanimous consent that they be permitted to become part of the record.

Without objection, so ordered.

[EDITOR'S NOTE.—Additional questions and answers can be found at the end of the hearing.]

Mr. JONES. The next witness is Vice Admiral Walter T. Piotti, United States Navy, Commander, Military Sealift Command, Department of the Navy, Washington, D.C.

Admiral, we are delighted to have you here.

Since Mr. Studds is not here, I will make this announcement.

Admiral Piotti of the Military Sealift Command is a graduate of the Massachusetts Maritime Academy, and I am sure that Mr. Studds will be quite happy about that.

You may proceed, Admiral.

STATEMENT OF VICE ADMIRAL WALTER T. PIOTTI, JR., USN, COMMANDER, MILITARY SEALIFT COMMAND, DEPARTMENT OF THE NAVY

Admiral PIOTTI. Mr. Chairman, I have a prepared statement and, with your indulgence, I will ask that it be inserted in the record, and at this time provide a brief oral statement.

Mr. JONES. Your prepared statement will appear in the record.

Admiral PIOTTI. As the Department of Defense single manager operating agency for ocean transportation, the Military Sealift Command is dependent on the U.S. maritime industry's ships, people, and industrial base to successfully carry out the majority of its missions, both during peacetime and in war.

Four years ago this month, strategic sealift joined the long-standing Navy functions of sea control and power projection as its third function. This was a result of the recognition that the national strategy was unexecutable without it.

In addition to sealift, MSC is globally engaged in two other missions. There are 39 direct fleet support ships that provide fuel, ammunition, food, supplies, as well as towing services and ocean surveillance for our worldwide-deployed combatant forces at sea.

MSC's Special Mission Support Force of 22 ships conducts ocean survey, research, cable laying and repair, and other support functions for the diverse variety of our Nation's worldwide commitment.

The transportation of cargo is of principal concern to this Committee and to the MSC. MSC currently employs 68 U.S.-flag merchant ships under long-term contract in point-to-point carriage to meet Government peacetime ocean transportation requirements. This is in addition to the significant cargo tonnage booked daily under MSC liner agreements with almost every U.S.-flag liner operator.

The national strategy mandates that strategic sealift have the capacity to deploy and sustain military forces whenever and wherever needed, as rapidly and for as long as operational requirements dictate. The essentiality of this requirement demands national resolve, for the fragile world peace we enjoy today is capable of spontaneous eruption at any time and at any place and this Nation's global commitments will retain it at the forefront of any struggle to maintain world peace. History and world events currently continue to reflect that naval and maritime forces are most often the forces of choice.

Today's military forces are better trained, better equipped, and in a more improved state of readiness than any time in the past four decades.

Our Navy is ready now to respond to any crisis. Over 95 percent of the cargo and petroleum needed to support our forces in crisis, contingency or war must be lifted by sea. Thus, our Nation's current ability to execute its national strategy is degraded by the declining condition of our maritime industry.

The shortfall in militarily-useful dry cargo ships is projected to exceed half-a-million deadweight tons by 1992, while the projected shortfall in handy-size tankers numbers some 31 ships in the same period of time.

Added to this is the significant shortfall of trained mariners and a rapidly declining industrial base. To help offset these shortfalls, the Navy has initiated several sealift enhancement programs which, I would hasten to emphasize, are near-term supplements rather than final solutions to existing shortfalls. For only a healthy and viable U.S. merchant marine, with the ships adequate in numbers and types, manned by properly trained U.S. mariners, and fully supported by a U.S. industrial base, will ensure a maritime force adequate to our national needs.

This hemorrhaging of our national maritime heritage and requirements demands the earliest resolve, and we look to this Subcommittee to be at the forefront of that movement.

I thank you, Mr. Chairman, and I stand ready to respond at this time to any questions you may have.

[The prepared statement of Admiral Piotti may be found at the end of the hearing.]

Mr. JONES. Admiral, I was delighted to hear your last remark regarding an adequate merchant marine. I only take it that you concur wholeheartedly with the Commission on Merchant Marine and Defense.

Admiral PIOTTI. I concur wholeheartedly with their findings.

Mr. JONES. Well, that's what I mean.

Admiral PIOTTI. Their recommendations are currently undergoing study, as Mr. Gaughan said, and we are now looking within the Department of Defense at those recommendations, for ways to implement them or to see whether further analysis is required.

Mr. JONES. All right, Admiral. Thank you very much.

Your testimony mentions that the Navy has initiated several sealift enhancement programs. Could you elaborate a little bit on that?

Admiral PIOTTI. The Navy, back in 1982, initiated several programs which were aimed at alleviating, or helping to alleviate the shortfall in sealift. Those programs fell into three categories: platform improvements, delivery and console equipment in ship mods, general ship mods. These were broken down into two programs: the Merchant Ship Naval Augmentation Program, referred to as MSNAP, and Container Over The Shore, or COTS Program. The Merchant Ship Naval Augmentation Program was designed to improve merchant ship capability to conduct strategic sealift and to augment direct fleet support capability ships.

The Container Over The Shore Program includes non-ship systems designed to improve the cargo flow over unimproved beaches. These programs, over the period of time, together with the RRF program, were funded to the tune of about $5.5 billion, and they provided modular delivery systems for both fuel and cargo, as well as underway replenishment console capability, sea sheds, flat racks, container ship strike-up systems, container ship conversions, stern refueling rigs, and merchant ship survivability. The Container Over The Shore Program provided lighterage, elevated causeway systems, discharge facilities, and offshore petroleum discharge systems.

Mr. JONES. All right. And finally, Admiral Piotti, the Second Report of the Commission on Merchant Marine and Defense recommended that legislation be enacted which would establish a procure-and-charter program.

Does the Navy have a position on this recommendation, and specifically, do you support the recommendation that funds for the program should be utilized and appropriated to the Maritime Administration budget?

Admiral PIOTTI. The Navy has looked at the recommendation and is trying to determine where it could best proceed with a build-and-charter program. At present, it appears that the area in which we would proceed first is in the area of tankers. It is that area we see as our first need for new shipping.

Mr. JONES. With the ringing of the two bells and a recorded vote, the Chair will declare a brief recess and return as soon as possible.

Admiral, I suppose that concludes your testimony, is that correct?

Admiral PIOTTI. If you have no more questions, Mr. Chairman.

Mr. JONES. I have no more. I have some that I will submit for the record.

Thank you very much, Admiral.

[EDITOR'S NOTE.—Additional questions and answers can be found at the end of the hearing.]

[Recess.]

Mr. JONES. The Committee will resume its hearing.

At this time, we will recognize the panel representing the State maritime academies: Admiral Ekelund, Admiral Curtis, Admiral Aylmer, Admiral Miller, and Dr. Merrell.

Which gentleman will be the lead spokesman?

Admiral MILLER. I will, sir. I am Admiral Miller of New York Maritime.

Mr. JONES. You are now recognized, sir.

STATEMENT OF REAR ADM. FLOYD H. MILLER, USN (RETIRED), PRESIDENT, STATE UNIVERSITY OF NEW YORK MARITIME COLLEGE; REAR ADM. JOHN J. EKELUND, USMS, PRESIDENT, CALIFORNIA MARITIME ACADEMY; REAR ADM. KENNETH M. CURTIS, USMS, PRESIDENT, MAINE MARITIME ACADEMY; REAR ADM. JOHN AYLMER, USMS, SUPERINTENDENT, MASSACHUSETTS MARITIME ACADEMY; AND DR. WILLIAM J. MERRELL, PRESIDENT, TEXAS MARITIME ACADEMY

Admiral MILLER. Thank you, Mr. Chairman.

We would like to submit written testimony for the record which objects to the Administration's budget proposals in detail, and I would like to summarize it here today.

Mr. JONES. Your prepared statement will appear in the record.

Admiral MILLER. Before testifying, Mr. Chairman, we would like to express our appreciation to this Subcommittee and the Full Committee for your support over the years, especially the last two years when the Office of Management and Budget and the Maritime Administration proposed to essentially eliminate Federal funding for the State maritime academies, as well as the laying up of our training ships. Your support kept these assets critical to our Nation's economy and security alive.

This year, OMB and MARAD have proposed to provide funding, albeit 33 percent less than we received three years ago, funding that has so many conditions attached that with smoke and mirrors it is the same proposal as the last two years. They simply want to shut down the State maritime academies.

The proposals this year, made with no study, are more costly in terms of dollars. I want to emphasize that point. They are more costly. The conditions set forth for funding are: (1) we must commence ship-sharing by 1989; and (2) to graduate, all cadets (students) must accept a Naval Reserve commission, if offered, and pass the Federal merchant marine officer's license exam.

We are pleased to note the introduction of H.R. 4200, which eliminates these problems except for ship-sharing. By MARAD's own admission, ship-sharing is more costly. I have heard a figure of $12 million vice the present $7 million expended on ships annually.

Depending on the circumstances, we can project upwards of $14 million annually in costs. These costs are all speculative and should be addressed in a feasibility study.

The Congress last year asked MARAD for a ship-sharing feasibility study. Instead of following Congress' request, we believe MARAD is now conducting an implementation study. We heard that today. The Administration's budget supports this thinking.

Certainly, you can see the bias towards this plan from the individual responsible, and I think its outcome will also be biased.

Ship-sharing causes many problems. It increases risk, creates unsafe practices, shifts liability to the Federal Government, disrupts our academic institutions and programs, and many, many more. These issues are set forth in our written testimony.

I hasten to add, this Nation will also be without ready, cost-effective troopships. This year, New York's ship was used twice for military exercises. In MARAD's budget proposal, you will note $1.2 million for a 5-to-10-day breakout of one RRF ship. This year, it only cost $300,000 each time to break out our ship in a similar timeframe.

What will happen to trooplift if our cost-effective school ships disappear from our piers? In making all our cadets accept Merchant Marine Reserve Commissions, if offered, we eliminate all prospective cadets that are too short, too tall, too old, those who meet Coast Guard licensing standards, but not Navy standards.

The last two years, MARAD and OMB wanted to essentially terminate this program, and now they want everyone. What has changed?

If you read the Maritime Education and Training Act, and I would just like to read one section, 1304, it says: "The Secretary shall cooperate with and assist any State maritime academy in providing instruction to individuals to prepare them for service in the merchant marine of the United States." No mention is made of the Navy whatsoever.

We believe all of this raises questions as to compliance with the Rehabilitation Act of 1973 barring discrimination on the basis of physical handicap, and also compliance with the Age Discrimination Act of 1975. And, more to the point, as you heard today, the Navy was never involved in this decision.

Linking the Merchant Marine Reserve Commission to the ship and to admissions runs counter to the Maritime Education and Training Act, which, as I mentioned earlier, states the purpose of the academies and their training ships is to train merchant marine officers. MARAD justifies this requirement based on callup, and present plans have no, and I repeat, no mobilization for Merchant Marine Reserve officers in time of war. And, sir, this is directly out of several sources, not the least of which is the Commission on Merchant Marine and Defense. There is no mobilization for the Merchant Marine Reserve.

OMB and MARAD's proposal also raises questions as to the 10th Amendment in regard to States Rights guarantees. In this case, the Federal Government will be preempting the States' operation of State post-secondary educational facilities.

We made a counter proposal last year to ship-sharing. Admiral Ekelund, right here, from California Maritime, proposed we use RRF ships.[1] I mentioned this in my testimony last year, and the Maritime Administrator acknowledged it. Nothing has been done since. In fact, we have heard nothing or had no reaction from MARAD in this regard. This proposal would meet our requirements and cost less. It is also included in our written testimony, together with a funding profile.

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[1] See Printed Hearings 100–11.

The Commission on Merchant Marine and Defense, in its Second Report, states that the President should ensure that Federal agencies refrain from policies that are contrary to national maritime policy and detrimental to the maritime industries. These new policies are detrimental—in addition to being more costly.

The Commission also points out with alarm, as did the 1986 Merchant Marine Manpower Study [2] and the 1986 GAO Ready Reserve Force study, that we have a grave lack of civilian mariners today to meet our national security needs. It will be twice as bad in 1992. We are, in the face of all these proposals, attempting now to recruit the Class of 1992.

The Commission recommends strong support for the State academies, not just for today, but as resources to be used in time of national emergency. Why is the Administration attempting to make policy that runs counter to the Commission's recommendations? These policies directly impact on our cadets, who pay more for their education and an eight-year obligation than the Federal Government does. Why eliminate this most cost-effective program?

The Commission recommends action be taken to reverse the civilian mariner manpower negative trends. Let us not increase these trends with misdirected actions. In our opinion, these new policies in the Administration's budget proposal are not good for the industry.

We appreciate the fact that H.R. 4200 does not support these proposals. Our youth, the youth of America, need a clear signal that the maritime industry is alive. They need a positive signal that our Nation needs them today and tomorrow. We appreciate your support and urge your support for H.R. 4200, and we request you review the results of MARAD's ship-sharing study to ensure it meets the intent of the Congress.

Thank you for this opportunity to testify, and we will be pleased to answer any questions that you may have.

[The prepared statement of the Maritime Academies may be found at the end of the hearing.]

Mr. JONES. Thank you, Admiral.

Does anyone on the panel desire to be heard?

Admiral CURTIS. No, sir.

Mr. JONES. This question is for anybody who wants to answer it. On this ship-sharing, is there possibly any middle ground that could be worked out on this controversial issue?

Admiral MILLER. Well, sir, I believe that a serious look should be given to Admiral Ekelund's plan, which we talked about here last year, one that, in the long run, is less costly, and utilizes RRF ships at our free piers, with our cadet labor working on them, and certainly the breakout, as I mentioned earlier, when they just use our ship as an example, was only $300,000.

MARAD budgets $1.2 million. I believe that there is a very good plan that could be put in place. That's Admiral Ekelund's plan. He may want to say some more.

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[2] The 2 July 1986 Navy Merchant Marine Manpower Study can be found in Printed Hearings 99–57.

Mr. JONES. Admiral Ekelund, go ahead.

Admiral EKELUND. Yes, sir, I think that that is one of the options which is available, but which would meet the objectives of the Administration to reduce the cost. I think that an objective ship-sharing plan which looks, truly looks at all of the options and the real costs will produce this middle ground that you talk of.

Admiral CURTIS. Mr. Chairman, in behalf of Maine Maritime Academy, I would endorse the use of an RRF ship as the most attractive alternative. I think that the best world that we could live in would be a world that would never need those ships that we are spending a tremendous amount of money to keep tied up, and we could certainly make some very good use of the vessel and reduce the cost to the Federal Government in the process.

Mr. JONES. Perhaps this answer would vary from State to State, but what percentage of your operating expenses come from the States?

Admiral MILLER. Well, sir, let me just take the last major study that was held in 1985, and let me use New York as an example. We are all about the same.

That year, in 1985, when this study was run, the cost per graduate, total cost, Federal, State, and student was $53,620. The Federal cost per graduate that year was $19,489. Today, those figures have changed. The State has put more money in; the Federal Government has put in less. Our figures for 1987 for the State, student, and Federal Government total $60,631, where the Federal Government now has put in $17,000.

I should point out that our cost is $60,631 where the Federal Academy cost is about $75,000. The percentage of funds in 1985 is still about the same, a little bit more for the States, a little bit less for the Federal Government. New York State funded 63 percent of the cost, the students funded 20 percent, and the Federal Government funded 17 percent. It's up a little bit now on the student share, a little bit down on the Federal.

Mr. JONES. What percentage of your graduates, of those who complete your courses, immediately can find jobs within the maritime industry?

Admiral MILLER. I will get—let me see—I've got the employment figures right here, the most recent ones, and this is all of the State academies. Employment, which includes deep sea and domestic shipping, 2 months after graduation, 48 percent are employed, and some schools are more, some schools less. This is the average across, all of us. Also, 19 percent are in maritime-related ashore, 12 percent are in the Navy. So, we're talking about 80 percent that are employed in the industry or in the Navy; 14 percent are not in the industry ashore.

I hasten to point out that a lot of those that are not counted as maritime industry ashore are working in power plants, which is easily convertible to operating an engine room on a merchant ship. And we have about 7 percent that are either going to graduate school or we can't find them and we can't find them probably because they are sailing. This year is better than the last four years, the best of the last four years.

Mr. JONES. In recent days—I don't know how widespread this is or whether it's been around a long time, there is some criticism, directing attention to the fact that the academies or the training schools are not up to present-day requirements; that is, the difference in the construction of the ships, with the use of computers and other modern technology. How are your academies approaching that particular problem?

Admiral **Aylmer**. Admiral Aylmer from Massachusetts.

Mr. Chairman, I think that Massachusetts is on a parallel with those accomplishments of my colleagues' States here, with regards to State commitments in terms of capital outlay to ensure that all of the available state-of-the-art resources are put on the line at our academies. Massachusetts being no exception, we have added in the last five years a diesel simulator, a radar simulator, and a full bridge simulator—all with the expenditure of State monies. And I submit that the same is taking place at the other academies. So all of the readings that I get coming back from our youngsters who sail in commercial shipping programs would suggest a significant degree of approval on the part of ships' officers, seasoned ships' officers, deck and engine, as to the professional competency and status of our young people today in training for careers at sea.

Mr. **Jones**. Well, the impression I had was that a young person who finishes your training very shortly has to go back to additional training to get acclimated to today's problems. But I think you have reassured me that you are making changes to meet the present needs. Is that correct?

Admiral **Aylmer**. I think the major concern that you are alluding to, Mr. Chairman, is in the field of propulsion, and quite frankly, I think we all know that our merchant marine, as regards diesel propulsion, has been tragically latent in terms of applying its skills in the interest of advancing diesel propulsion. The scarcity of diesel ships in our fleet has been somewhat of a problem, but diesel simulators are the first opportunity we have really had to get a start at the schools, looking for proficiency in diesel. Even many of our very experienced steam officers from all training sources have had to go back and get some diesel training experiences, and I think that's probably less the case with new graduates than people who have been at sea for some time.

Admiral **Miller**. At New York we not only have the Nation's, we have the world's newest and most sophisticated diesel simulator, and that, coupled with our diesel training tug, I believe, allows us to graduate cadets that certainly meet those requirements. I believe everybody else is doing about the same thing.

Admiral **Ekelund**. Mr. Chairman.

Mr. **Jones**. Yes, sir, Mr. Ekelund.

Admiral **Ekelund**. Admiral Ekelund, from California.

We additionally have a diesel simulator. We have invested about $1.5 million over the past three years in the upgrade of laboratory equipment at State expense to keep our programs current.

Our academic programs are accredited by the accrediting agencies, national accrediting agencies. And we teach in diesel technology courses to industry. So I am satisfied that our graduates who earn both engineers' licenses as diesel and steam operators meet the requirements of industry today.

Mr. **Jones**. I would observe that your program, your State schools, have a lot of friends within the Congress. And when I hear these criticisms, I thought it only fair to find out your positions, where you are. And I thank you very much.

I don't have any further questions. I appreciate your being here today, and, although I don't have a State maritime school within my State, I'm very supportive.

Admiral **Miller**. Thank you very much, Mr. Chairman. We deeply appreciate your support and that of your distinguished colleagues.

Mr. **Jones**. The Committee stands adjourned.

[Whereupon at 3:29 p.m., the Subcommittee was adjourned, to reconvene at the call of the Chair.]

[The following was received for the record:]

100TH CONGRESS
2D SESSION

H. R. 4200

To authorize appropriations for fiscal year 1989 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1988

Mr. JONES of North Carolina (for himself, Mr. BIAGGI, Mr. ANDERSON, Mr. DAVIS of Michigan, and Mr. LENT) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To authorize appropriations for fiscal year 1989 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. In fiscal year 1989, $486,851,000 is authorized to be appropriated for the Maritime Administration including—

(1) for payment of obligations incurred for operating-differential subsidy, $300,000,000;

(2) for research and development activities, $2,000,000 to remain available until expended;

(3) for expenses related to operations and training activities, $61,801,000, including—

(A) for maritime education and training not more than $34,021,000 including—

(i) not more than $22,759,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(ii) not more than $10,000,000 for financial, operation, maintenance, and fuel oil assistance to the State maritime academies and their training vessels; and

(iii) $1,262,000 for additional training;

(B) for other operating programs $27,780,000; and

(4) for expenses related to national security support capabilities, not more than $123,050,000, including—

(A) $121,852,000 for the National Defense Reserve Fleet, including—

(i) $35,400,000 for fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force;

(ii) $75,351,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(iii) $11,101,000 for other programs in the National Defense Reserve Fleet;

(B) $1,198,000 for emergency planning operations.

SEC. 2. In fiscal year 1989, $15,150,000 is authorized to be appropriated for the use of the Federal Maritime Commission.

SEC. 3. (a) Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)) is amended—

(1) in paragraph (1)(B), by striking "and" the second place it appears;

(2) in paragraph (1), by striking subparagraph (C) and substituting the following:

"(C) paid by the Secretary for the first complete or partial academic year of attendance to the individual in a lump sum of $1,200 or on a pro-rated basis based on actual attendance, and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary for the academic years after those years specified in subparagraph (C) as the Secretary shall prescribe while the individual is attending the academy.";

(3) in paragraph (2), by striking "apply for midshipman" and substituting "accept midshipman and enlisted reserve";

(4) in paragraph (3)(D), by striking "to apply for an appointment as,"; and

(5) in paragraph (4), by striking "has attended a State maritime academy for not less than two years' and substituting "has accepted the payment described in paragraph (1)(C) of this subsection".

(b) The amendments made by this section apply to individuals who commence attendance after December 31, 1988, at a State maritime academy in accordance with section 1304 of the Merchant Marine Act, 1936 (46 app. U.S.C. 1295c).

SEC. 4. Until October 1, 1990, the term "vessel" in section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)) does not include the following types, whether in existence or under construction: drill ships, tug supply boats, supply boats, crew boats, pipelaying barges, any other type of vessel designed or intended primarily for offshore oil or gas exploration or development, and any type of vessel, other than a passenger vessel, operated or intended to be operated primarily in inland waterways.

ONE HUNDREDTH CONGRESS

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March 22, 1988

TO: **MEMBERS, SUBCOMMITTEE ON MERCHANT MARINE**

FROM: **Majority and Minority Staff**

SUBJECT: **MARAD/FMC Authorization for Fiscal Year 1989 (H.R. 4200) -- Wednesday, March 23, 1988**

At 1:30 p.m. on Wednesday, March 23, 1988, the Subcommittee on Merchant Marine will conduct a hearing on the Fiscal Year 1989 authorization for appropriations for the Maritime Administration (MARAD) and the Federal Maritime Commission (FMC). The hearing will be held in 1334 Longworth House Office Building. Witnesses will include the Maritime Administrator and representatives from the Department of Defense, the Federal Maritime Commission, and the State maritime academies.

On March 17, 1988, Chairman Jones (together with Mr. Biaggi, Mr. Anderson, Mr. Lent, and Mr. Davis) introduced authorizing legislation (H.R. 4200). H.R. 4200 and the President's budget request are summarized in the accompanying Budget Comparisons table.

OCEAN FREIGHT DIFFERENTIAL

The Administration has requested a permanent, indefinite appropriation for the ocean freight differential authorized by P.L. 99-198. The funds requested for FY 89 are $68,921,000. This cost is incurred when the Secretary of Transportation is required to borrow funds from the Treasury in order to reimburse the Department of Agriculture for transportation costs of Government-impelled foreign aid food relief programs as provided in sections 901a-901k of the Merchant Marine Act, 1936. No authorization is necessary, since the 1936 Act gives the Secretary of Transportation permanent authority to borrow from the Treasury.

SECTION 1. MARITIME ADMINISTRATION

H.R. 4200 authorizes $486,851,000 for the following programs under the jurisdiction of the Maritime Administration:

OPERATING-DIFFERENTIAL SUBSIDY

H.R. 4200 authorizes $300 million for operating-differential subsidy (ODS). The Subcommittee on Merchant Marine held a hearing on a number of ODS reform bills on March 17, 1988. Two additional hearings are planned. H.R. 4200 assumes that reform legislation will pass, and that $300 million will be required for this program. The Administration requested $248.9 million to continue the existing ODS program and anticipates requiring $275,290,000 if its own reform legislation is enacted.

RESEARCH AND DEVELOPMENT

The Administration's budget has eliminated the specific line item authorization for Research and Development (R&D) but continues to provide for limited funding for certain programs and technical studies. This year, the total is $2 million (up $1 million from last year) and is included within Operations and Training (O&T) funding. H.R. 4200 retains the R&D category by reallocating the $2 million from Operations and Training to R&D.

It should be noted that the President's Commission on Merchant Marine and Defense in its Second Report recommended that the Departments of Defense and Transportation seek "increased R&D funding for merchant marine and shipbuilding technology related activities that have industry wide, defense related applications." An innovative program should result in a more efficient, internationally competitive, militarily-useful merchant marine. The Commission cited the National Shipbuilding Research Program as a beneficial initiative that could be revived and expanded. (In 1985, the program claimed a one-year savings of nearly $75 million on a $7 million investment.)

OPERATIONS AND TRAINING

H.R. 4200 authorizes $61,801,000 for Operations and Training. The Administration has requested $74.1 million. H.R. 4200 creates a separate subsection for National Security Support Capabilities, and that is the reason for the discrepancy of $12,299,000. The following are included within O&T:

Education and Training

H.R. 4200 authorizes $34,021,000 for maritime education and training. The Administration is requesting $32,021,000 for this program.

Within this category, H.R. 4200 authorizes $22,759,000 for the United States Merchant Marine Academy at Kings Point -- an increase of about $2.5 million, primarily for updating the Academy's buildings and heating plant. The Administration has also requested this amount.

H.R. 4200 authorizes $10 million for financial, operation, maintenance, and fuel oil assistance to the six State maritime academies and their training vessels, and makes certain changes in the Student Incentive Payment (SIP) program. The Administration is proposing an authorization level of $8 million.

Historically, the State maritime academies have been funded at an average cost of about $12 million a year until the recent budgetary pressures. For fiscal year 1987 and again for 1988, the Administration proposed termination of all Federal financial support for the State academies -- except for some minor obligations previously incurred. The Committee and the Congress did not adopt these proposals, and $9 million was appropriated for each of the last two years. For FY 88, there was also a one-time $10 million appropriation to complete conversion and repair of a replacement training vessel for the New York State Maritime Academy at Fort Schuyler.

The Administration is now requesting continuation of Federal support, with a number of conditions that will require legislative or regulatory approval. This proposal would change the existing Federal-State maritime training relationship for merchant marine officers, and it may be contentious.

Specifically, the Administration's budget request proposes that all students enrolled at the State academies pass the examination required for issuance of a U.S. merchant marine officer's license as a condition of graduation. All students would also apply for and accept, if offered, an appointment as a commissioned officer in the Naval Reserve or any other reserve unit of the Armed Forces.

These two requirements are imposed on students who graduate from the United States Merchant Marine Academy at Kings Point. Those students receive a free education, which is 100 percent Federally-funded.

The representatives of the State maritime academies will argue that their system is the most cost-effective to produce licensed deck and engineering officers for our merchant marine. State funding, student tuition payments, and Federal assistance at an average cost of $10 million per year have produced an average of over 700 licensed officers each year. While they do not want to engage in an argument about the cost-effectiveness of the State academies versus the Federally-operated Academy at Kings Point, they will point out that the United States Merchant Marine Academy is budgeted for $22,759,000 and is producing only 200 licensed officers per year.

The State academy representatives will argue that States should not be required to comply with the same prerequisites for graduation as those imposed on Kings Point graduates since they are not fully funded by the Federal Government.

In addition, the States will also note that the Administration's intention to phase out the Student Incentive Payment of $1,200 a year to qualified State students will create a further inequity between Federal and State training programs. H.R. 4200 includes language contained in last year's Authorization bill, which makes certain changes in the SIP program. It would eliminate the possibility that a student could collect payments without making a commitment to accept reserve status.

An issue of major importance to the State Academies is the Administration's proposal that the academies share two training vessels. The Conference Report accompanying H.R. 1847 (Report 100-195), the Supplemental Appropriations bill for FY 87, contained language concerning the subject of ship sharing. It directed the State academies to share the training vessels, and directed MARAD to submit its final plans for a ship-sharing arrangement to the academies by October 1, 1987. That deadline has not been met.

In prior years, the Subcommittee received testimony that the shared use of training ships is not a viable program and is probably not a cost-effective alternative to the existing system. A few years ago, the BAY STATE (the Massachusetts training ship), was inoperative, and vessels were shared for a limited period. That experience highlighted the problems with ship-sharing. MARAD has never provided the Congress with a detailed feasibility study so that all aspects of cost and safety could be reviewed and analyzed. No consideration has been given to the impact on the State maritime academies and their ability to cope with such a major policy change. Presently, MARAD is developing an implementation and scheduling study rather than a feasibility-type study. MARAD is also developing legislative proposals for implementing this initiative.

The Administration's prime concern is the expected high cost to replace existing training vessels in the out years. MARAD states that replacement costs can total $100 million; however, others indicate the costs would be considerably less. One vintage training vessel for the Massachusetts maritime academy has been replaced and is operational. Another vintage training vessel for the State University of New York Maritime College will be replaced during late 1989. A replacement vessel has been selected, and conversion funds amounting to $18.5 million have already been appropriated. Only the California, Maine, and Texas training vessels will have to be replaced in the future.

The Subcommittee might question why MARAD has never realistically embarked on a replacement training vessel program. The State maritime academies will argue that a $3-4 million annual set-aside for a replacement training vessel every five or so years could result in an economical, cost-effective, and timely replacement program. They will also claim that ship sharing will cost, at a minimum, $3-4 million more than what is presently appropriated each year.

Other Operating Programs

The Administration is requesting $29,780,000 for general operating funds, which provide for the general administration of MARAD and other programs not directly funded. This item should be noncontroversial. It includes $2 million for certain special programs and technical studies. H.R. 4200 reallocates this $2 million to an R&D line item.

NATIONAL SECURITY SUPPORT CAPABILITIES

As stated earlier, this item has been broken out of Operations and Training, and H.R. 4200 authorizes a total expenditure of $123,050,000 for this category. This includes those expenses associated with maintenance of the National Defense Reserve Fleet (NDRF) and the Emergency Planning and Operations program that the Administration has included within the Operations and Training subhead. It also includes, for the first time, those expenses associated with the funding and management of the Ready Reserve Force (RRF). Funding for this program has been with the Navy in recent years, but starting in fiscal year 1989, it will be included within the MARAD authorization and appropriations process.

National Defense Reserve Fleet

For the national security support capabilities, a total of $123,050,000 is authorized. For the NDRF, $121,852,000 is authorized, including: for the procurement of additional ships or selective replacement of ships in the RRF - $35,400,000; for the maintenance and operation of RRF vessels in an advanced state of readiness and their berthing - $75,351,000; and for other programs in the NDRF - $11,101,000. None of these items appears to be controversial. The Subcommittee might want to receive further information on the scope of the RRF program and what is contemplated for the future.

Emergency Planning Operations

H.R. 4200 authorizes $1,198,000 for Emergency Planning Operations program to insure continuity and routine maritime operations in time of national emergency.

SECTION 2. FEDERAL MARITIME COMMISSION

The authorization request for the FMC should be noncontroversial. H.R. 4200 authorizes $15,150,000 for the FMC -- an increase of about $1.5 million over the appropriation for FY 88. This is the same amount requested by the Administration. Questions may be raised about the implementation schedule and the status of a tariff automation system, enforcement actions, and the status of the 1984 Shipping Act's requirement for studies by the FMC and an advisory commission.

SECTION 3. STUDENT INCENTIVE PAYMENTS

As mentioned earlier, H.R. 4200 includes language contained in last year's Authorization bill, which makes certain changes in the SIP program. It would eliminate the possibility that a student could collect $2,400 without making a commitment to accept reserve status.

SECTION 4. FEDERAL SHIP FINANCING FUND (TITLE XI)

Title XI of the Merchant Marine Act, 1936 established a program whereby the Federal Government guarantees a certain percentage of a commercial loan made to a person building a ship in a U.S. shipyard. The purpose of the program is to encourage ship operators to build vessels in the United States. The title XI fund, which historically has been self-sustaining, has been depleted by an increasing number of defaults in the past few years. This is primarily due to a downturn in maritime shipping, offshore oil exploration, and related vessel support systems. These defaults and bankruptcies have necessitated Federal payment to bondholders.

The Administration is again proposing to eliminate the program altogether, although its request for repeal legislation was not acted upon in the last Congress. The Administration believes that this Federal guarantee program distorts private markets.

During consideration of the FY 88 budget in the First Session, the Subcommittee examined the Administration's policy on new loan commitments in view of its request for repeal of the program. This led to the adoption of an amendment that removed certain classes of vessels from the title XI loan guarantee program for a limited period. H.R. 4200 contains a similar provision. In view of the Administration's request for repeal of the program, the Subcommittee might want to review the number and type of title XI requests and MARAD's policy on new loan commitments.

CONTACTS
Majority: Cyndy Wilkinson/Rudy Cassani, 63500
Minority: Kip Robinson/Rusty Johnston, 63492

Enc

cc: Members, Committee on Merchant Marine and Fisheries

March 22, 1988 4:28 PM (#267cms)

SECTION-BY-SECTION ANALYSIS
OF H.R. 4200,
MARAD/FMC AUTHORIZATION FOR FISCAL YEAR 1989

This bill authorizes the appropriation of $486,851,000 for various maritime programs of the Department of Transportation that are managed by the Maritime Administration (MARAD) and $15,150,000 for the Federal Maritime Commission (FMC), an independent agency, for fiscal year 1989 -- for a total authorization level of $502,001,000.

The Administration requested $460,141,000 for MARAD, which includes those amounts proposed for its operating-differential subsidy (ODS) reform legislation. If reform legislation were not enacted, the Administration would require authorization of only $433,751,000. H.R. 4200 assumes the enactment of reform legislation. The bill contains authorization for ODS that is $24,710,000 over what the Administration has requested for that program.

This legislation reallocates $2 million from the Operations and Training (O&T) program to a separate Research and Development (R&D) line item.

H.R. 4200 also provides an additional $2,000,000 for maintaining the State maritime schools.

The bill amends the Maritime Education and Training Act of 1980 (title XIII of the Merchant Marine Act, 1936) to provide greater stability to the Student Incentive Payment (SIP) program.

The bill also amends the title XI loan guarantee program so as to remove certain classes of vessels from this program for a limited period.

SECTION 1 -- MARITIME ADMINISTRATION

The programs for the Maritime Administration are designed to promote the development of an American merchant marine for the domestic and foreign trades and for national security requirements. The categories are as follows:

(1) Operating-Differential Subsidy.

H.R. 4200 authorizes $300,000,000 for obligations incurred for operating-differential subsidy. This authorization level assumes that reform legislation will be enacted and reflects increased costs under a new program.

The Administration contemplates an outlay of $275,290,000 for this subsidy program -- if its reform legislation is enacted. Should this legislation not be enacted, the Administration is requesting $248,900,000 ($35,600,000 more than the estimated outlay for fiscal year 1987).

The 1989 budget authority for the existing ODS program includes estimated liabilities for operation of 81 liner vessels and 23 bulk carriers under agreements with 16 vessel operators. This request provides funds for existing ODS contracts. The Administration's budget does not provide for new contracts, nor is there specific funding authority for the termination or buyout of existing contracts.

The 1989 budget submission also indicates that, if the Administration's reform legislation were enacted, the contemplated ODS program would include estimated liabilities for operation of 59 liner vessels and 23 bulk carriers under agreements with 16 vessel operators.

This program is necessary for the promotion and maintenance of a U.S.-flag merchant marine capable of providing liner shipping services in essential routes and bulk shipping services in support of the economic security and the national defense of the United States. These subsidies are designed to achieve a parity between certain U.S-flag and foreign-flag ship operating costs.

(2) Research and Development.

The bill authorizes $2,000,000 for R&D activities of the Maritime Administration. These activities include programs that develop concepts, methods, systems, and equipment to improve productivity and operating efficiency in the shipbuilding and ship operating industries. The Administration has included this same amount for technical studies in its Operations and Training funding request, but does not specifically identify the amount for R&D.

(3) Operations and Training.

The bill authorizes $61,801,000 for Operations and Training. This figure reflects a $2,000,000 increase over the Administration's request for assistance to the State maritime academies (California, Maine, Massachusetts, Michigan, New York, and Texas). As mentioned above, H.R. 4200 sets out R&D as a separate line item, taking the $2,000,000 from Other Operating Programs.

(A) Maritime Education and Training.

(i) Merchant Marine Academy, Kings Point, New York

The bill authorizes $22,759,000 for Maritime Education and Training programs at the Merchant Marine Academy to develop and maintain a four-year undergraduate program that leads to a bachelor of science degree, a merchant marine officer's license as third mate or third assistant engineer, and a commission as an Ensign in the Naval Reserve. These funds will also permit the continuation of a long-range modernization program for renovating and upgrading facilities that are over 42 years old, with particular emphasis on renovation of the Academy's central heating plant and distribution system.

(ii) State Maritime Academies.

The bill authorizes $10,000,000 as the Government's contribution for 1989 to the Federal-State maritime education program as envisioned by the Maritime Education and Training Act of 1980 (46 App. U.S.C. 1295). These funds are for financial assistance to the six State academies and for the operation and maintenance of, and fuel oil for, their training vessels. The assistance includes the cost of alterations, repairs, and general maintenance of the training vessels; direct annual payments of $100,000 to each academy; and student incentive payments in support of cadets, amounting to $1,200 per academic year for each subsidized cadet.

The Administration, after two years of proposing no funds for State maritime academies, is now requesting continuation of Federal support, with a number of new conditions which will require legislative or regulatory approval. This bill continues Federal aid to State maritime academies as in prior years.

(iii) Additional Training.

The bill authorizes $1,262,000 for administering and operating school programs at the agency level, for the conduct of supplementary training courses, and for the costs of developing and maintaining current data on the maritime labor force.

(B) Other Operating Programs.

The bill authorizes $27,780,000 for the general administration of policies and programs of MARAD and for in-house training. This is $2,000,000 less than what the Administration requested because $2,000,000 for program and technical studies has been reprogrammed to a R&D line item.

(4) National Security Support Capability.

The bill authorizes $123,050,000 for expenses related to national security support capabilities and includes, for the first time, those expenses associated with the funding and management of the Ready Reserve Force (RRF), previously funded by the Department of the Navy. Of this amount, $121,852,000 is for the National Defense Reserve Fleet (NDRF), which includes the RRF, and $1,198,000 is for emergency planning operations.

(A) National Defense Reserve Fleet.

H.R. 4200 authorizes $121,852,000 for the NDRF. Included in this amount is $110,751,000 for the Ready Reserve Force, which is a subset of the National Defense Reserve Fleet. This is a new feature of the authorization for appropriations for MARAD and results from the Administration's decision to consolidate funding and management of the RRF under MARAD.

Funding for this program has been within the Navy budget, and its transfer does not represent an overall increase in the Federal budget. Funding for programs for the acquisition, maintenance and upgrading of the RRF was established in 1977. Through fiscal year 1981, funding for the maintenance of RRF vessels in a high state of readiness was in the MARAD budget. It has only been since 1984 -- when the Navy began purchasing with their funds privately-owned vessels for the RRF -- that questions of responsibility, control, and the related budget authority have been raised.

(i) Fleet Additions and Replacements.

H.R. 4200 authorizes $35,400,000 for fleet additions, replacements, acquisition, and upgrading of vessels for the RRF.

(ii) Maintenance and Operations.

$75,351,000 is to be used for maintenance and operations programs in support of the RRF.

(iii) Other Programs in the National Defense Reserve Fleet.

The bill authorizes $11,101,000 for the preservation and maintenance of merchant vessels that are retained in the National Defense Reserve Fleet for service as naval and military transport auxiliaries in time of war or national emergency.

(B) Emergency Planning Operations.

The bill authorizes $1,198,000 for emergency planning operations programs to ensure continuity and control of maritime operations in time of national emergency.

SECTION 2 -- FEDERAL MARITIME COMMISSION

The bill authorizes $15,150,000 for the Federal Maritime Commission for fiscal year 1989. The FMC is an independent regulatory agency that administers the Shipping Act, 1916; the Shipping Act, 1984; the Intercoastal Shipping Act, 1933; the Merchant Marine Act, 1920; and related shipping statutes. The Commission's major responsibilities include the regulation of ocean carriers' ratemaking; investigation of discriminatory rates and practices among shippers, carriers, terminal operators, and freight forwarders operating in the U.S. ocean commerce; licensing of independent ocean freight forwarders; and passenger vessel certification.

SECTION 3 -- STUDENT INCENTIVE PROGRAM

This section amends section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)) to increase the commitment to the Federal Government of students receiving student incentive payments. This program assists certain individuals attending State maritime academies. At the present time, students receive these payments for the first two academic years and do not have to enter into a U.S. Naval Reserve agreement until their third year. Some never enter into an agreement and receive a windfall of $2,400 ($1,200 for each of two years) without any reciprocal benefit to the Government. The changes to the SIP program will now move the commitment and agreement date to the second year. These changes provide that the student would be given a lump sum payment of $1,200 for the first year and payable in the second year only after an agreement is signed by the student and accepted by the Government.

SECTION 4 -- TITLE XI LOAN GUARANTEE PROGRAM

This section amends section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)) to limit the applicability of the loan guarantee program to certain classes of vessels by excluding those vessels primarily engaged in the offshore oil exploration and exploitation industry and those engaged in the inland trades until October 1, 1990.

March 22, 1988 11:56 AM (#264cm)

MARITIME ADMINISTRATION AND FEDERAL MARITIME COMMISSION
BUDGET COMPARISONS
(in millions of dollars)

	APPROP. FY 86	APPROP. FY 87	APPROP. FY 88	H.R. 4200 FY 89	ADMIN. REQUEST FY 89
Operating-Diff. Subsidy (ODS)	299.500	320.000	250.300	**300.000**[1]	**275.290**[2]
Research and Development (R&D)	9.474	3.500	0.000	**2.000**[3]	**0.000**[3]
Operations and Training (O&T)	57.637	54.434	65.239	**61.801**	**61.801**
- Education & Tng	31.277	29.413	38.434	34.021	+ 32.021
- Kings Point	18.789	19.278	20.290	22.759	22.759
- State Academies	11.403	9.000	16.900[4]	10.000	8.000
- Addl Tng	1.085	1.135	1.244	1.262	1.262
- Other Operating Programs	26.360	25.021	26.805	27.780	+ 29.780
National Security Support Capabilities	9.066	9.566	10.282	**123.050**	**123.050**
- National Defense Reserve Fleet	7.613	8.048	9.161	121.852	+ 121.852
- RRF Additions	Navy	Navy	Navy	35.400	35.400
- RRF Maintenance	Navy	Navy	Navy	75.351	75.351
- Other Programs	7.613	8.048	9.161	11.101	11.101
- Emergency Planning	1.453	1.518	1.121	1.198	+ 1.198
MARAD	375.677	387.500	325.821	486.851	460.141
FMC	11.360	11.600	13.585	15.150	15.150
TOTAL	387.037	399.100	339.406	502.001	475.291

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1. Includes additional funding if Committee's ODS reform legislation is enacted
2. Includes additional funding if Administration's ODS reform legislation is enacted
3. Administration prefers elimination of the R&D program and provides funds in O&T to complete existing programs
4. Does not include a $1.3 million carryover from FY 87, but does include a one-time $10 million appropriation to complete conversion and repair of a replacement training vessel

March 22, 1988 12:53 PM(#132CS)

COMPARISON OF FEDERAL AND STATE MARITIME ACADEMY STUDENT REQUIREMENTS

	U.S. Merchant Marine Academy	State Maritime Academies
Tuition	Students pay no tuition. Total costs are assumed by the Federal Government. Physical plant assets are owned by the Federal Government.	Students pay tuition of approximately $8,000 a year; about 20 percent of the total costs. Many costs are assumed by the State; about 63 percent of the total costs. Federal costs, including cost of fuel for ships, is about 17 percent of the total costs. Physical plant assets are owned or rented by the State Government.
Cost Per Graduate	A MARAD study of 4-year Federal cost per graduate in Class of 1985 at the Federal Academy was $68,862. Federal cost per graduate in the future will be higher since enrollment figures have fallen and annual costs have increased. Estimated cost per graduate in the Class of 1987 is about $75,000.	A MARAD study of the 4-year Federal cost per graduate in Class of 1985 at the State University of New York Maritime College was $12,774 for those who graduated as licensed officers in the merchant marine. For those who graduated with a license and a reserve commission (due to student incentive payments), the cost was $19,849. The other State academies report similar costs.
Budget	Federal Academy is now budgeted for about $22 million, and produces about 200 graduates per year.	State academies have been budgeted for about $9 million a year and produce over 700 graduates per year.

	U.S. Merchant Marine Academy	State Maritime Academies
License Requirement	Need merchant marine license to graduate.	California requires a merchant marine license to graduate. Texas law prohibits requirement for license as condition of graduation, but only 2 students in the past five years have graduated without a license. Other State academies do not require a merchant marine license to graduate but almost all students graduate with a license. For example, New York during the past five years had 7 graduates who did not graduate with a license because 3 were not qualified physically, 2 didn't take the license exam, and 2 went into the Navy and didn't want a license.
Maintenance of License	Must maintain license for not less than six years after graduation. This means must renew license at least once after graduation.	No requirement to maintain license if student was not in SIP or NROTC program. However, most graduates renew licenses at least once after graduation.
Commission Requirement	Must accept and maintain reserve commission for eight years.	SIP graduates must maintain their reserve commissions for eight years. NROTC graduates must maintain their reserve commissions for eight years. All other graduates are not required to accept a reserve commission.
Service Commitment	Federal requirement to prepare students for service in the merchant marine and a commissioned officer service commitment in the Armed Forces.	Federal requirement to prepare students for service in the merchant marine. Only SIP and NROTC students are required to make a commissioned officer service commitment in the Armed Forces.
Committed Employment	Graduates are required to be employed in maritime industry, ashore or afloat, for at least five years after graduation.	Only SIP graduates are required to be employed in the maritime industry, ashore or afloat, for at least three years after graduation. Employment records after graduation parallel those of Federal graduates.

MM + F

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

MAR 2[illegible] 1988
22

The Honorable James Wright
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

There is transmitted herewith a draft of a proposed bill,

> "To authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes."

together with a statement of purpose and need in support thereof.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress, and that its enactment would be in accord with the President's program.

Sincerely,

Jim Burnley
Jim Burnley

Enclosure

E.C. # 3235
28 March
198

DRAFT BILL

"To authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes."

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Years 1989 and 1990."

Sec. 2. Funds are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, for the fiscal year ending September 30, 1989, as follows:

(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $248,900,000;

(2) Upon enactment of operating-differential subsidy reform legislation, not to exceed $202,370,000 for payment of obligations incurred for operating-differential subsidy under existing contracts, and not to exceed $72,920,000 for new agreements authorized by such legislation;

(3) For expenses necessary for operations and training activities, not to exceed $74,100,000; including:

(a) For maritime education and training expenses, not to exceed $32,021,000; including not to exceed $22,759,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $8,000,000 for financial assistance to state maritime academies, and $1,262,000 for expenses necessary for additional training;

(b) For national security support capabilities, not to exceed $12,299,000; including not to exceed $11,101,000 for reserve fleet expenses, and $1,198,000 for emergency planning/operations; and

(c) For other operations and training expenses, not to exceed $29,780,000; and

(4) For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, not to exceed $110,751,000.

Sec. 3. There are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, such sums as may be necessary for fiscal year 1990, to carry out the activities provided for in section 2 of this Act.

Sec. 4. Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C.1271-1279c) is amended by the addition of a new section 1111 as follows: "SEC. 1111. The authority of the Secretary to enter into a new commitment to guarantee the payment of the interest on, and the unpaid balance of the principal of, any obligation which is eligible to be guaranteed under this title, shall expire on September 30, 1988."

Sec. 5. Section 1304 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c), is amended as follows:

(1) In subsection (d) by striking "an amount equal to", and substituting "$400,000" for "$100,000";

(2) In subsection (f) by: (a) striking "and" after the semicolon in subparagraph (A); and (b) striking the period at the end of subparagraph (B), and inserting the following: "; and (C) after the date of enactment of this subparagraph, agree in writing to require each U.S. citizen entering the academy in a merchant marine officer preparation program, as a condition for graduation, to (i) pass the examination administered by the United States Coast Guard required for issuance of a merchant marine officer license, and (ii) apply for an appointment as, accept if tendered an appointment as, and agree to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of United States, for at least six years following the date of graduation from such state maritime academy of such individual."; and

(3) In subsection (g), by the addition to paragraph (7) of the following: "The authority of the Secretary to enter into an agreement under paragraph (1) of this subsection shall expire on September 30, 1988."

Sec. 6. Section 362(b) of title 11, United States Code is amended as follows:

(a) Paragraph (12) is amended by striking "which was brought" and inserting "brought or to be brought;" and

(b) The freestanding paragraph following paragraph (13) is amended by striking "paragraphs (12) and (13)" and inserting "paragraph (13)"; and inserting at the end the following: "The rights of the Secretary of Transportation under paragraph (12) shall not be affected or enjoined by any court."

Statement of Purpose and Need for the Draft Bill

> "To authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes."

Section 209 of the Merchant Marine Act, 1936, as amended, ("Act"), states that after December 31, 1967, there are authorized to be appropriated for certain maritime activities of the Department of Transportation only such sums as the Congress may specifically authorize by law. The draft bill authorizes appropriations for those activities listed in section 209 for which the Department of Transportation proposes to seek appropriations for fiscal years 1989 and 1990.

"Sec. 2. Funds are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, for the fiscal year ending September 30, 1989, as follows:"

Authorizes specific amounts to be appropriated for fiscal year 1989 for the following activities.

"(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $248,900,000;"

"(2) Upon enactment of operating-differential subsidy reform legislation, not to exceed $202,370,000 for payment of obligations incurred for operating-differential subsidy under existing contracts, and not to exceed $72,920,000 for new agreements authorized by such legislation;" and

Operating-differential subsidy (ODS) is based upon the difference between U.S. and foreign vessel operating costs and paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services in the U.S. foreign commerce. Operators receiving ODS must operate U.S.-flag vessels manned by American crews.

An estimated $248,900,000 appropriation to liquidate contract authority for ODS will be required under current legislation for U.S.-flag operations in 1989. The requested amount would provide for ongoing support of 81 liner and 23 bulk vessels. Upon enactment of ODS Reform legislation, the Administration will transmit a budget amendment for consideration by the Appropriations Committees to amend the appropriation bill to provide for the new program. The budget amendment would include $202,370,00 for payment of obligations incurred for operating-differential subsidy under existing contracts, and $72,920,000 for new agreements authorized by such legislation. Thus, enactment of each of these amounts is proposed as a ceiling should the authorization bill precede ODS Reform legislation.

"(3) For expenses necessary for operations and training activities, not to exceed $74,100,000; including:"

Operations and training activities include salaries and other expenses for the following:

"(a) For maritime education and training expenses, not to exceed $32,021,000; including not to exceed $22,759,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $8,000,000 for financial assistance to state maritime academies, and $1,262,000 for expenses necessary for additional training;"

The 1989 maritime education and training program (Title XIII of the Act) encompasses operation of the U.S. Merchant Marine Academy, continuing assistance to six state maritime academies, and additional training for eligible merchant marine personnel.

Funding requested for the Merchant Marine Academy will provide an additional $1,850,000 for renovation of the heating system and other facility repairs. The first phase of heating system renovation was proposed in the 1988 Budget, but funds were not appropriated.

The state maritime academies program assists states in the education and training of individuals for service as officers in the U.S. merchant marine. Historically, assistance has been provided to participating states (California, Maine, Massachusetts, Michigan, New York, and Texas) in the form of direct payments to the academies, incentive payments to cadets, and maintenance and repair of ships on loan for use as training ships. Pursuant to the President's Budget, the incentive payments to cadets will be phased out, and the other assistance provided will be limited to those schools that enter into the agreement provided by section 5 of the draft bill. Unlike the 1987 and 1988 budgets, the Administration is not proposing elimination of Federal financial support to the state maritime academies. Two changes in the program are proposed in order to enhance the Federal return on investment and strengthen the Federal commitment to the program. These are (a) sharing of training ships which would avoid future ship replacement costs, and (b) replacement of the Student Incentive Payment (SIP)

Program with a more meaningful commitment applicable to all students. As SIPs are phased out, available funds would be dedicated to increased direct payments to the six academies. In addition, as a condition of receiving Federal assistance (direct payments and training ships), the State Schools would require that all graduates pass the exam for a Merchant Marine officer's license and accept, if offered, an appointment in the U.S. Naval Reserve or any other Reserve unit of an armed force of the United States.

Finally, the additional training program provides for costs of administration of the Merchant Marine Academy and state marine school programs at the headquarters level, and provides for training in shipboard firefighting, and operation and maintenance of medium and slow speed marine main propulsion diesel engines.

"(b) For national security support capabilities, not to exceed $12,299,000; including not to exceed $11,101,000 for reserve fleet expenses, and $1,198,000 for emergency planning/operations; and"

The national security support capabilities account is dedicated to meeting expenses associated with the National Defense Reserve Fleet (NDRF) and the emergency planning/operations programs. Each program is directly supportive of the Maritime Administration's national security responsibilities. The reserve fleet program provides for preservation, maintenance and security of ships in the NDRF and for administration of the ship transfer and ship disposal programs.

The NDRF comprises an inventory of ships available to meet requirements for additional shipping capacity in times of national emergency. $2 million is requested for continuation of a multi-year program to renovate and provide adequate facilities at the three national defense reserve fleet sites. The increased level of operational activity and the increased number of large ships in the NDRF and associate RRF program necessitates improvements in the reserve fleet mooring facilities and shore side support facilities to ensure efficient and effective operations and to permit their continued use. The program includes dredging at each of the fleet sites; improvements and expansion of mooring facilities at the James River Reserve Fleet site; and replacement of the crane barge at each fleet site. $500,000 was allocated to the base program from the 1988 appropriation and an additional $2 million is requested in 1989 and subsequent years to complete this program.

Under the emergency planning/operations program, the agency develops and maintains plans and procedures to ensure continuity and control of maritime operations in time of national emergency, and insures seamen and private shipping against loss in time of war.

"(c) For other operations and training expenses, not to exceed $29,780,000; and"

Funding authorized under the category of "other operations and training expenses" provides for the direction and administration of other Agency programs and for program costs not separately authorized. The request reflects an increase of $1,000,000 over and above amounts previously appropriated for technical and program studies in fiscal year 1988, such that this activity shall have a total of $2,000,000 in fiscal years 1989 and 1990. This additional funding is required to provide a firm expression of Government interest in support of cooperative programs of the maritime community, especially when major funds are contributed from other sources, and for policy and program studies to improve the management of maritime-related Government programs.

"(4) For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, not to exceed $110,751,000."

The request provides funding for the Ready Reserve Force (RRF), which is comprised of laid up Government-owned, U.S.-flag merchant ships. The RRF is maintained in an advanced state of readiness to meet surge shipping requirements during a national emergency. The 1989 budget proposes to appropriate these funds to the Maritime Administration, which has historically managed the RRF and funded certain RRF base costs in its Operation and Training appropriation. In the past, the Navy has funded the incremental cost of advanced readiness requirements.

Section 8137 of Public Law 100-202 directed that ". . . The President shall submit in his budget proposals to the Congress for fiscal year 1989 an arrangement for the Ready Reserve Fleet in which funding and program responsibilities are consolidated in a single Federal organization. . .". The proposed 1989 consolidation will place the entire funding and program responsibility for RRF ships in one Federal agency, the Maritime Administration. Included in the request is $35,400,000 for fleet additions including both purchase of vessels and upgrade of vessels already owned. In addition, $75,351,000 is requested for maintenance and operations. This includes funds required for ship activation, maintenance and berthing, and special projects.

"Sec. 3. There are authorized to be appropriated without fiscal year limitation, as the Appropriation Act may provide for the use of the Department of Transportation, such sums as may be necessary for fiscal year 1990, to carry out the activities provided for in section 2 of this Act."

This section authorizes to be appropriated such sums as may be necessary for fiscal year 1990 in accordance with 31 U.S.C. 1106.

"Sec. 4. Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271-1279c) is amended by the addition of a new section 1111 as follows: 'SEC. 1111. The authority of the Secretary to enter into a new commitment to guarantee the payment of the interest on, and the unpaid balance of the principal of, any obligation which is eligible to be guaranteed under this title, shall expire on September 30, 1988'."

Section 4 of the draft bill would amend Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271-1279c) to implement the President's fiscal year 1989 budget request for no new Title XI loan guarantee commitments in 1989 and beyond.

Pursuant to the Title XI Guarantee Program, the Secretary of Transportation guarantees obligations to finance the construction, reconstruction or reconditioning of U.S.-flag vessels. The Secretary of Commerce has similar authority under that Title with respect to fishing vessels and fishery facilities. The Title XI Guarantee Program is one of several Federal credit programs that the Administration proposes to reduce or phase out in order to limit the Government's intervention in the Nation's lending markets. To this end the Administration has proposed that the Secretary's authority to enter into new Title XI loan guarantee commitments shall expire after fiscal year 1988

"Sec. 5. Section 1304 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c), is amended as follows:

"(1) In subsection (d) by striking 'an amount equal to', and substituting '$400,000' for '$100,000';

"(2) In subsection (f) by: (a) striking 'and' after the semicolon in subparagraph (A); and (b) striking the period at the end of subparagraph (B), and inserting the following: ';and (C) after the date of enactment of this subparagraph, agree in writing to require each U.S. citizen entering the academy in a merchant marine officer preparation program, as a condition for graduation, to (i) pass the examination administered by the United States Coast Guard required for issuance of a merchant marine officer license, and (ii) apply for an appointment as, accept if tendered an appointment as, and agree to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of United States, for at least six years following the date of graduation from such state maritime academy of such individual.'; and

"(3) In subsection (g), by the addition to paragraph (7) o the following: 'The authority of the Secretary to enter into an agreement under paragraph (1) of this subsection shall expire on September 30, 1988'."

Section 5 of the draft bill would amend section 1304 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c) as follows:

Subsection (d) would be amended so that reprogrammed SIP funds could be added to the direct payments to these schools.

Subsection (f) would be amended to implement the President's budget recommendation that as a condition of Federal assistance (the Federal payments as well as the availability of training ships) to the state maritime academies, such academies must require all candidates entering a merchant marine officer preparation program to pass the examination administered by the United States Coast Guard required for issuance of a merchant marine officer license as a condition for graduation, and to apply for and accept, if offered, appointment as a commissioned officer in the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least six years following the date of graduation from the State maritime academy of such individual. The purpose of this amendment is to make all state school graduates available as licensed merchant marine officers for purposes of mobilization in an national emergency.

Section (g) would be amended to terminate the authority of the Secretary to enter into Student Incentive Payments after September 30, 1988.

"Sec. 6. Section 362(b) of title 11, United States Code is amended as follows:

"(a) Paragraph (12) is amended by striking 'which was brought', and inserting 'brought or to be brought'; and "(b) The freestanding paragraph following paragraph (13) is amended by striking 'paragraphs (12) and (13)', and inserting 'paragraph (13)'; and at the end by inserting: 'The rights of the Secretary of Transportation under paragraph (12) shall not be affected or enjoined by any court.'"

Section 6 of the draft bill would amend section 362(b) of title 11, United States Code, concerning bankruptcy. Prior to the enactment of Public Law 99-509, approved October 21, 1986, the Departments of Transportation and Commerce, as mortgagees under the Title XI Guarantee Program, were unable to take timely foreclosure action on a defaulted Title XI mortgage, because almost all of the defaulted Title XI vessels were being operated by their owners under the protection of the bankruptcy courts. Those vessels were being operated in most cases with no capital cost to cover, because the owners had defaulted and the mortgages had been paid off. Their continued operation was causing significant injury to the remainder of the industry, including those Title XI operators who continued to honor their financial commitments. Section 5001 of Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986, amended section 362(b) of title 11, United States Code, by the addition of a paragraph (12), concerning the Secretary of Transportation, and a paragraph (13), concerning the Secretary of Commerce, so that after 90 days they would have the authority to foreclose on a defaulted mortgage even though the mortgagor was in bankruptcy. These 1986 amendments to the bankruptcy code will expire by their terms on December 31, 1989.

Section 362(b)(12) has proved beneficial to the Department of Transportation in the negotiation of Title XI claims with debtors in bankruptcy, and has been applied reasonably and fairly with respect to debtors and their respective competitors. For these reasons, the Department believes that the authority vested in the Secretary under section 362(b)(12) should be made permanent. To this end, the draft bill would delete the 1989 termination date with respect to paragraph (12) that is set forth in the freestanding paragraph following paragraph (13).

Although section 362(b)(12) has been helpful to the maritime industry and the Department of Transportation, there have been a number of occasions when the bankruptcy courts have evidenced a certain confusion in construing the Congressional purpose of this new provision. More particularly, one bankruptcy court mistakenly concluded that the Secretary's rights under section 362(b)(12) only applied to admiralty foreclosures that had been commenced by the Secretary prior to the debtor's filing for bankruptcy. The draft bill would clarify this misunderstanding by a suitable amendment to paragraph (12). Other bankruptcy courts have asserted their bankruptcy authority to reimpose the automatic stay or further stay the Secretary from exercising his authority under section 362(b)(12). The draft bill would remedy this situation by the addition of the following sentence to the freestanding paragraph following paragraph (13): "The rights of the Secretary of Transportation under paragraph (12) shall not be affected or enjoined by any court."

ONE HUNDREDTH CONGRESS

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JIM BUNNING KENTUCKY

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

April 26, 1988

Honorable Edwin Meese III
The Attorney General of the United States
Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

I am writing with regard to a proposal that would permit the Maritime Administration (MARAD) of the Department of Transportation to operate training ships that are currently being operated by five State maritime academies.

The Maritime Administration, which derives its authority from the Merchant Marine Act, 1936 (46 App. U.S.C. 1101), has for some time been displeased with the existing, long-standing Federal-State maritime training relationship for a number of reasons. As a matter of fact, funds for this program were not requested in the 1987 and 1988 budgets, but were appropriated by Congress in each case.

MARAD's primary concern has been and continues to be the future budgetary impact of replacing or upgrading the five training vessels that are provided to the State maritime academies under the Maritime Education and Training Act of 1980 (46 App. U.S.C. 1295). While MARAD has failed to take action, it now feels that these budget concerns can be alleviated by adopting a program of ship-sharing; that is, two training vessels to be shared by five State academies in lieu of five training vessels.

While MARAD presumes ship-sharing to be cost effective, the Committee on Merchant Marine and Fisheries has for several years received testimony from affected parties that such a program would not be cost effective for a number of reasons. One of these reasons is the probable increase in litigation and settlement costs under admiralty law.

At the present time, each State maritime academy operates a training vessel essentially as a bareboat charterer with MARAD assuming costs for major maintenance, repair, drydocking, and fuel. The States pay for consumables and minor repairs. Cadets do general maintenance. Cadets and academy staff operate the vessels. Personal injury, disability, and death claims are settled under State compensation laws. Certain insurance costs are also assumed by the States either directly or under State-sponsored self-insurance programs.

MARAD, under ship-sharing, contemplates providing only two training vessels and shifting the responsibility of operating them from the States to the Federal Government. MARAD would essentially become a training ship fleet operator. It contemplates providing a minimum of nine weeks of underway training time; four weeks between cruises for orientation, safety training, loading consumables, and necessary voyage repairs; and several weeks of shipyard availability. Under this plan, the shared ships would no longer be on permanent loan to the schools;

they would be on short-term loan to the individual schools during training voyages. While the States would provide operating crews and training personnel on these voyages, the Federal Government would provide a permanent/supervisory shipkeeping staff. This would include a licensed master and chief engineer, other licensed personnel, and unlicensed engine and deck personnel (including storekeepers).

Ship-sharing, as you can see, might reduce the familiarization and pre-training level of the cadets who will be manning the vessel during the training cruises. Safety is of critical concern to this Committee, and I mention it so that you will be aware of the issue when considering the liability exposure and settlement costs that your Department might have to assume.

The Committee on Merchant Marine and Fisheries is uncertain that MARAD has fully considered the additional costs that would have to be borne by the Federal Government if a ship-sharing program were implemented. I would appreciate it if you could review the following issues.

(1) Has the Justice Department considered whether the liability of, and costs to, the Federal Government would be increased? If so, please provide me with your analysis.

(2) If liability has been reviewed by your Department, did you consider whether the decrease in safety (because of the "go on board-get underway" concept) would increase liability exposure?

(3) Does MARAD have the authority to be a vessel operator so as to implement a ship-sharing program as presently contemplated?

It also appears that, before ship-sharing can be implemented, MARAD would be required to make a number of regulatory changes with respect to operations and liability under the public input procedures required by the Administrative Procedure Act. Please provide the Department's views on this matter.

I realize the questions being raised are complex and will require some time before receiving a complete and adequate reply. However, I would appreciate receiving whatever preliminary information you might be able to provide to permit us to make some timely judgments within our responsibility for overseeing the Federal-State maritime training relationship.

With kindest regards, I am

Sincerely,

Walter B Jones

WALTER B. JONES, Chairman
Subcommittee on Merchant Marine

WBJ:cm

cc: Honorable Norman F. Lent
Maritime Administration (Honorable John A. Gaughan)

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

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JUN 20 1988
COMMITTEE ON MERCHANT MARINE
AND FISHERIES

Honorable Walter B. Jones
Chairman
U.S. House of Representatives
Committee on Merchant Marine
and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515-6230

Dear Chairman Jones:

This is a response to your letter of April 26, 1988 regarding a proposal that would permit the Maritime Administration of the Department of Transportation ("MARAD") to operate training ships that are currently being operated by five State maritime academies.

In that letter you asked whether the Department of Justice had considered whether the liability of the Federal government would be increased by the proposal. You also asked for the Department's views on: (1) whether MARAD has the authority to be a vessel operator so as to implement a ship-sharing program as presently contemplated, and (2) whether, before implementing the ship-sharing plan, MARAD would be required to make regulatory changes under the Administrative Procedure Act.

With regard to your first question, I can inform you that the Department has not considered or analyzed whether the liability of the federal government would be increased by the proposal. As to your second two questions, unfortunately we are unable to respond. While the Department comments on proposed legislation, it does not have authority to provide legal opinions to individual members and committees of Congress.

We regret that we can not be of assistance to you in this case.

Sincerely,

Tom Boyd

Thomas M. Boyd
Acting Assistant Attorney General

STATEMENT OF THE HONORABLE JOHN GAUGHAN, MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE ON THE AUTHORIZATION REQUEST OF THE MARITIME ADMINISTRATION FOR FISCAL YEAR 1989 AND 1990 SET FORTH IN THE ADMINISTRATION'S DRAFT BILL AND H.R. 4200.

MARCH 23, 1988

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE ON MERCHANT MARINE. MY NAME IS JOHN GAUGHAN AND I AM THE MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION. IT IS A PLEASURE FOR ME TO BE HERE THIS AFTERNOON TO PRESENT THE VIEWS OF THE ADMINISTRATION WITH RESPECT TO THE AUTHORIZATION REQUEST OF THE MARITIME ADMINISTRATION FOR FISCAL YEARS 1989 AND 1990. YOU HAVE TWO BILLS BEFORE YOU TODAY -- THE ADMINISTRATION'S DRAFT BILL AND H.R. 4200, INTRODUCED BY CHAIRMAN JONES AND OTHER MEMBERS OF THE COMMITTEE. WHILE THE BILLS ARE SIMILAR IN CERTAIN RESPECTS, THERE ALSO ARE SIGNIFICANT DIFFERENCES. IN PARTICULAR, H.R. 4200 INCLUDES $300 MILLION FOR ODS, WHILE THE ADMINISTRATION'S BILL PROVIDES $248.9 MILLION, IN CASE OF NO ODS REFORM, AND $275.3 MILLION IF ODS REFORM IS ENACTED. IN ADDITION, H.R. 4200 PROVIDES AN EXTRA $2 MILLION FOR STATE MARITIME SCHOOLS, FUNDING THAT THE ADMINISTRATION PROPOSES BE USED FOR TECHNICAL AND PROGRAM STUDIES, AND SEPARATELY AUTHORIZES $2 MILLION FOR RESEARCH AND DEVELOPMENT FOR WHICH THE ADMINISTRATION MAKES NO REQUEST. THE MAJOR SUBSTANTIVE DIFFERENCES BETWEEN H.R. 4200 AND THE ADMINISTRATION'S DRAFT BILL LIE IN THE STATE SCHOOL AND TITLE XI PROGRAMS, WHICH I WILL DISCUSS IN MORE DETAIL LATER IN MY STATEMENT.

MAJOR BUDGET CHANGES

SEVERAL NEW POLICY DIRECTIONS AND RELATED BUDGET CHANGES RESULT FROM ADMINISTRATION FY 1989 INITIATIVES. THESE INITIATIVES ARE CONSISTENT WITH THE PURPOSES ENACTED OVER FIFTY YEARS AGO BY THE 74TH CONGRESS -- TO FOSTER AN ADEQUATE AND WELL BALANCED MERCHANT MARINE IN ORDER TO PROMOTE THE COMMERCE OF THE UNITED STATES AND ALSO AID IN ITS NATIONAL DEFENSE.

FIRST, WE ARE TAKING ACTIONS TO FURTHER THE ACTIVE MERCHANT MARINE THROUGH THE REDUCTION AND ELIMINATION OF UNNECESSARY REGULATIONS AND THE FINANCIAL REFORM OF OPERATING SUBSIDIES. OUR BUDGET FOR OPERATING-DIFFERENTIAL SUBSIDIES (ODS) REQUESTS APPROPRIATIONS TO LIQUIDATE CONTRACT AUTHORITY WHICH WILL ADEQUATELY SUPPORT THE CURRENT PROGRAM, 69.2 SHIPYEARS AND $248,900,000. SINCE 1980, THE ACTIVE U.S.-FLAG FOREIGN TRADE FLEET HAS DECLINED FROM 224 TO 134 ACTIVE SHIPS. A REFORM OF THE ODS PROGRAM WAS PROPOSED IN LATE SUMMER 1987 IN ORDER TO STEM THIS DECLINE BY PROMOTING MORE COMPETITION, REDUCING FEDERAL COSTS PER SHIP, AND OPENING THE PROGRAM TO PREVIOUSLY UNSUBSIDIZED OPERATORS. THE PRESIDENT'S 1989 BUDGET SETS ASIDE ADDITIONAL FUNDS TO IMPLEMENT THIS REFORM LEGISLATION. UPON ENACTMENT, A TOTAL OF $275,290,000, WOULD BE AVAILABLE, OF WHICH $202,370,000 WOULD BE FOR PAYMENT OF OBLIGATIONS INCURRED FOR ODS UNDER EXISTING CONTRACTS AND $72,920,000 WOULD BE FOR NEW AGREEMENTS AUTHORIZED BY THE LEGISLATION. THESE PROPOSALS INCLUDE MEASURES TO REDUCE COSTS. THUS, THE OVERALL COST INCREASE OF THE REFORM PROPOSAL FOR 1989 WOULD AMOUNT TO ONLY $26,390,000, THOUGH WE WOULD BE SUSTAINING ABOUT 17.3 MORE SHIPYEARS OF OPERATION. OUR PROPOSALS THUS BALANCE THE NEED TO STEM THE DECLINE OF THE U.S. FLAG FLEET WHILE MINIMIZING THE NEED FOR INCREASED FEDERAL EXPENDITURES. I WOULD LIKE TO URGE THE SUBCOMMITTEE TO ADOPT THE FUNDING LEVELS IN THE ADMINISTRATION'S DRAFT BILL, WHICH I BELIEVE ARE ADEQUATE TO FINANCE A FISCALLY RESPONSIBLE REFORM OF THE ODS PROGRAM.

THE ADMINISTRATION, IN THIS BUDGET, RESUMES SUPPORT FOR THE STATE MARINE SCHOOLS ON THE CONDITION THAT THE PROGRAM IS RESTRUCTURED IN ORDER TO IMPROVE ITS COST EFFECTIVENESS AND MAXIMIZE THE RETURN ON THE FEDERAL DOLLAR. WE ARE REQUESTING $8 MILLION, WHEREAS H.R. 4200 PROVIDES $10 MILLION FOR THIS ACTIVITY. IN ORDER TO ASSURE AVAILABILITY OF STATE SCHOOL GRADUATES DURING A NATIONAL EMERGENCY, WE ARE REQUESTING AN AUTHORIZATION FOR THE STATE SCHOOLS WHICH CONDITIONS THE USE OF FUNDS AND THE PROVISION OF TRAINING VESSELS ON EACH SCHOOL, REQUIRING EACH GRADUATE TO PASS MERCHANT MARINE OFFICER LICENSING EXAMS, AND APPLY FOR AND ACCEPT, IF OFFERED, A SIX YEAR COMMISSION IN THE NAVY OR COAST GUARD RESERVE, OR A RESERVE UNIT OF ANOTHER ARMED FORCE. THESE REQUIREMENTS ARE ALREADY IN PLACE FOR U.S. MERCHANT MARINE ACADEMY GRADUATES. IN ADDITION, GRADUATES OF THE U.S. MERCHANT MARINE ACADEMY ALSO HAVE A FIVE-YEAR EMPLOYMENT REQUIREMENT/OBLIGATION WHICH HAS BEEN THREE YEARS FOR THE STATE SCHOOLS AND NOW WOULD NO LONGER APPLY TO THE GRADUATES OF THE STATE SCHOOLS. STUDENT INCENTIVE PAYMENTS WHICH ARE ACCEPTED BY ONLY SOME STUDENTS WOULD NO LONGER BE NECESSARY TO GAIN A FEDERAL COMMITMENT FROM EACH INDIVIDUAL. THEREFORE, WE ALSO PROPOSE TO PHASE OUT THE STUDENT INCENTIVE PAYMENT PROGRAM AND BEGIN REPROGRAMMING THESE FUNDS TO INCREASE ANNUAL, DIRECT PAYMENTS UP TO $400,000 FOR EACH SCHOOL. WHILE H.R. 4200 ALSO CONTAINS AN ATTEMPT TO ADDRESS THE CURRENT INEFFECTIVENESS OF THE STUDENT INCENTIVE PAYMENT PROGRAM, IT FALLS SHORT OF RESOLVING THE BASIC PROBLEM. THE CURRENT SERVICE OBLIGATION CANNOT BE ENFORCED IN PRACTICE. SUBSTANTIALLY LESS THAN HALF THE CURRENT GRADUATES ARE COMMITTED TO RESPOND TO NATIONAL MOBILIZATION NEEDS. H.R. 4200 WOULD CONTINUE A CUMBERSOME AND INEFFECTIVE ADMINISTRATIVE BURDEN.

CONCURRENTLY, WE ARE PURSUING WITH THE STATES A MORE ECONOMICAL USE OF TRAINING RESOURCES THROUGH SHARING OF SHIPS. WE HAVE ASKED THE STATES TO PARTICIPATE IN A STUDY TO ENSURE EFFECTIVE DEVELOPMENT OF THE OPERATIONAL ASPECTS OF THIS PROPOSAL. BY FISCAL YEAR 1989, THIS WORK SHOULD BE COMPLETED AND WE ANTICIPATE A PLAN WHICH, IN ACCORDANCE WITH 1988 APPROPRIATIONS, WILL BE PREPARED FOR THE SECRETARY'S APPROVAL PRIOR TO IMPLEMENTATION. MEANWHILE, OUR BUDGET PROPOSES AN OVERALL LEVEL OF $8,000,000 FOR STATE MARINE SCHOOL SUPPORT, WHICH OF COURSE IS BASED ON THE PREMISE THAT THE SCHOOLS AND MARAD WILL BE ABLE TO IMPLEMENT A SCHOOL SHIP SHARING PLAN. I WOULD LIKE TO URGE THIS SUBCOMMITTEE TO INCLUDE IN ITS BILL THE ADMINISTRATION'S PROPOSALS FOR THE STATE SCHOOL PROGRAM ALONG WITH OUR REQUESTED $8 MILLION FUNDING LEVEL.

ANOTHER IMPORTANT INITIATIVE IS THE CONSOLIDATION OF THE FUNDING AND THE RESPONSIBILITY FOR THE RRF WITH MARAD IN ORDER TO ASSURE A SUPPLY OF MERCHANT SHIPS DURING NATIONAL EMERGENCIES AND ADEQUATE SUPPORT TO THE NAVY FOR SUPPLY OF THE ARMED SERVICES IN TIME OF NATIONAL EMERGENCY. THIS ACTION IS PURSUANT TO THE REQUIREMENT IN P.L. 100-202. IN ADDITION TO THE RRF, MARAD ALSO HAS A MAJOR ROLE IN ASSURING THE AVAILABILITY OF ACTIVE U.S. FLAG VESSELS, FOREIGN FLAG - U.S. OWNED VESSELS, ALLIED SHIPS, AND SHIPS IN THE NATIONAL DEFENSE RESERVE FLEET. BECAUSE THESE SOURCES CANNOT PROVIDE THE RIGHT NUMBER AND TYPES OF SHIPS ON TIME TO THE PORTS OF EMBARKATION DURING THE EARLY PHASES OF MOBILIZATION, IT WAS DETERMINED ESSENTIAL TO THE SUPPLY OF OVERSEAS COMBAT OPERATIONS THAT A NUMBER OF COMMERCIAL VESSELS UNDER GOVERNMENT CONTROL BE IN ADVANCED READINESS AT DISPERSED LOCATIONS. MARAD AND NAVY, IN ACCORD WITH DOD/NAVY CONTINGENCY REQUIREMENTS, HAVE THUS BEEN BUILDING A READY RESERVE FORCE TO MEET THE PROJECTED SHORTFALL IN SURGE SHIPPING REQUIREMENTS. A REQUEST OF $110,751,00 WILL ENABLE US TO MAINTAIN AND PERIODICALLY ACTIVATE THE PRESENT GROUP OF SHIPS AND TO INCREASE THE RRF TO 108 SHIPS IN 1989. FUNDING FOR THIS PROGRAM HAS RESIDED PRIMARILY WITH THE NAVY FROM 1982 THROUGH 1988; HOWEVER, BEGINNING WITH FY 1989 AND BEYOND, THE ADMINISTRATION PROPOSES THAT RRF FUNDING BE AUTHORIZED AND APPROPRIATED TO MARAD.

OVERALL RRF REQUIREMENTS ARE DETERMINED IN ACCORDANCE WITH DOD/NAVY PLANNING GUIDANCE WHICH TAKES INTO ACCOUNT MARAD DATA ON PRESENT AND PROJECTED MERCHANT SHIP AVAILABILITY FROM ALL SOURCES AS MEASURED AGAINST THE SEALIFT REQUIREMENTS OF THE VARIOUS MILITARY SERVICES. THE RRF HAS BEEN BUILDING UP SINCE THE PROGRAM'S INITIATION IN 1976 AND HAS A CURRENT PLANNING GOAL OF 120 SHIPS IN 1991. SHIPS ARE ADDED TO THE FLEET THROUGH DIRECT ACQUISITION FROM COMMERCIAL SOURCES AND UPGRADING OF ALREADY OWNED GOVERNMENT VESSELS ACQUIRED THROUGH TRADE-INS WITH MARAD'S 510(I) SCRAP PROGRAM. $35,400,000 IS REQUESTED PRIMARILY FOR SEVEN ADDITIONAL SHIPS IN 1989. ONCE SHIPS ARE IN THE FLEET, COSTS ARE INCURRED FOR THEIR MAINTENANCE AT HIGH READINESS LEVELS. THEY MUST ALSO MEET REQUIREMENTS OF THE COAST GUARD, AMERICAN BUREAU OF SHIPPING, AND OTHER REGULATORY BODIES. FORTY-NINE OF THE 101 VESSELS ESTIMATED FOR 1988 ARE OUTPORTED AT SITES OTHER THAN THE THREE NDRF SITES. THESE SHIPS, OUTPORTED FOR STRATEGIC PURPOSES, INCUR ADDITIONAL COMMERCIAL BERTHING COSTS. THESE MAINTENANCE AND BERTHING COSTS ARE ESTIMATED AT $72,192,000 IN 1989. BASED ON NAVY PLANNING REQUIREMENTS, THE BUDGET PROVIDES $1,183,000 FOR ONE SHIP ACTIVATION AND DEACTIVATION, WHICH IS NECESSARY TO TEST THE ABILITY OF MARAD TO MEET THE FIVE OR TEN DAY RESPONSE FOR BREAKING OUT A VESSEL, CONDUCTING SEA-TRAILS AND ARRIVING AT A DESIGNATED PORT. WHILE THIS IS AN UNUSUALLY LOW LEVEL OF ACTIVATIONS (BY COMPARISON, SEVEN ARE PLANNED IN 1988), THE PRESIDENT'S BUDGET ASSUMES INCREASED FUNDING FOR SHIP ACTIVATIONS IN THE OUT YEARS. FINALLY, $1,976,000 IS REQUESTED TO CONTINUE SPECIAL PROGRAMS RELATED TO THE READY RESERVE FLEET. WHILE WE PREFER THE STRUCTURE OF OUR REQUEST, H.R. 4200 HAS VERY SIMILAR OBJECTIVES WITH REGARD TO THE RRF. I WOULD BE PLEASED TO WORK WITH THE COMMITTEE TO EXPLORE WAYS IN WHICH WE CAN AGREE ON SPECIFIC LANGUAGE.

OTHER REQUESTS

IN ADDITION TO THE ABOVE MAJOR PROGRAM AND FUNDING AREAS, WE ARE REQUESTING INCREASED FUNDS FOR HEATING SYSTEM RENOVATIONS AND OTHER FACILITY REPAIRS AT THE U.S. MERCHANT MARINE ACADEMY (USMMA) ($1,850,000), CONTINUATION OF THE NATIONAL DEFENSE RESERVE FLEET (NDRF) FACILITIES PROGRAM ($2,000,000) AND ADDITIONAL FUNDS FOR TECHNICAL AND PROGRAM STUDIES ($1,000,000). WE NOTE THAT H.R. 4200 PROVIDES $2 MILLION FOR R & D ACTIVITIES,NOT REQUESTED BY THE ADMINISTRATION, AND URGE THAT THIS FUNDING BE EXCLUDED FROM THE BILL REPORTED BY THE SUBCOMMITTEE.

HEATING DISTRIBUTION SYSTEMS AT THE USMMA NEED REHABILITATION IN ORDER TO ASSURE RELIABLE OPERATION AND FUEL SAVINGS. THE EXISTING SYSTEM IS 45 YEARS OLD AND WILL EITHER HAVE TO BE REPAIRED OR REPLACED. FURTHER, WATERFRONT PIERS AND RELATED ELECTRICAL SYSTEMS ARE BADLY IN NEED OF SYSTEMATIC REHABILITATION AS PILINGS DETERIORATE, BULKHEADS BEGIN TO BREAK AND ELECTRICAL SYSTEMS DEMAND EMERGENCY, PARTIAL REPAIRS.

REQUESTED FUNDS FOR THE NDRF FACILITIES ARE REQUIRED TO COMPLETE DREDGING AND RELATED MOORING STAKES AND MAINTENANCE OF THE BEAUMONT MOORING BASIS AND LEVEE, AS WELL AS PROVIDE A DOCKSIDE CRANE AT THE JAMES RIVER, VIRGINIA SITE. FUNDS APPROPRIATED FOR THIS PROGRAM IN 1987 AND 1988 ARE SUFFICIENT TO ACCOMPLISH MOST OF THE DREDGING. THE ADDITIONAL FUNDS IN 1989 ARE PRIMARILY FOR FOLLOW-ON WORK REQUIRED TO KEEP THE BEAUMONT SITE OPERATIONAL.

AN ADDITIONAL $1,000,000 IS REQUIRED FOR PROGRAM AND TECHNICAL STUDIES. THIS PROVIDES AN ONGOING LEVEL SUFFICIENT FOR PROJECTS WHICH THE INDUSTRY WOULD NOT BE EXPECTED TO CONDUCT, BUT FROM WHICH THE GOVERNMENT WOULD EXPECT MAXIMUM BENEFIT. THESE INCLUDE EFFORTS AT REDUCING COSTS OF TRANSPORTING CARGO PREFERENCE CARGO, MARITIME SAFETY, PORT DEVELOPMENT ISSUES AND INITIATIVES TO INCREASE THE MARKET SHARE OF U.S.-FLAG SHIPPING.

MARAD FUNDING PROVIDES A FIRM SUPPORT TO SEVERAL COOPERATIVE EFFORTS BETWEEN ELEMENTS OF THE NAVY, COAST GUARD, NATIONAL TRANSPORTATION SAFETY BOARD, NATIONAL SCIENCE FOUNDATION AND INDUSTRY. THIS IS CONSISTENT WITH MARAD'S ROLE AS THE GOVERNMENT'S CATALYST IN COMMERCIAL SHIPPING INNOVATIONS. WE BELIEVE THE ADMINISTRATION'S PROPOSAL FOR TECHNICAL AND PROGRAM STUDIES REFLECTS THE BEST WAY TO ACCOMPLISH THESE GOALS AND SHOULD NOT BE SACRIFICED TO PROVIDE AN UNNECESSARY INCREASE FOR STATE SCHOOLS.

SECTION 3 OF H.R. 4200 AND SECTION 5 OF OUR DRAFT BILL WOULD AFFECT THE STUDENT INCENTIVE PAYMENT PROGRAM FOR STATE SCHOOL STUDENTS. H.R. 4200 WOULD GENERALLY IMPOSE MORE STRINGENT REQUIREMENTS FOR SUCH PAYMENTS, WHEREAS OUR EXPERIENCE WITH THE PROGRAM HAS COMPELLED US TO RECOMMEND THAT IT BE TERMINATED AND ALL GRADUATES ASSUME AN APPROPRIATE SERVICE OBLIGATION.

SECTION 4 OF BOTH BILLS WOULD PLACE CERTAIN RESTRICTIONS ON THE TITLE XI GUARANTEE PROGRAM. H.R. 4200 WOULD TEMPORARILY SUSPEND THE PROGRAM WITH RESPECT TO CERTAIN VESSELS, WHEREAS THE ADMINISTRATION IS AGAIN REQUESTING THAT TITLE XI BE PHASED OUT, REFLECTING THE ADMINISTRATION'S OVERALL POLICY TO LIMIT THE GOVERNMENT'S INTERVENTION IN THE NATION'S PRIVATE LENDING MARKET.

FINALLY, MR. CHAIRMAN, SECTION 6 OF OUR DRAFT BILL WOULD AMEND THE BANKRUPTCY CODE TO CLARIFY THE SECRETARY'S AUTHORITY UNDER PUBLIC LAW 99-509 TO FORECLOSE ON A TITLE XI MORTGAGE WHERE THE MORTGAGOR IS IN BANKRUPTCY. WE ARE APPRECIATIVE OF THE EXISTING MARITIME BANKRUPTCY CODE PROVISIONS SPONSORED BY THIS COMMITTEE, AND ARE REQUESTING CONTINUANCE OF THIS PROVISION AND THIS CLARIFICATION AMENDMENT BECAUSE OF OUR EXPERIENCE WITH CERTAIN BANKRUPTCY COURTS.

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU OR THE OTHER MEMBERS MAY HAVE.

ADDITIONAL QUESTIONS SUBMITTED BY THE HONORABLE WALTER B. JONES, CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE TO THE MARITIME ADMINISTRATION ON H.R. 4200, FISCAL YEAR 1989 MARAD/FMC AUTHORIZATION (MARCH 23, 1988 HEARING)

Question: 1. By letter of June 3, 1986, the Maritime Administrator asked the Deputy Chief of Naval Operations (Logistics) for an explanation as to what the Navy is prepared to offer to the State academies in the way of Ready Reserve Force (RRF) vessel outporting, general agency agreements, and associated monetary compensation. Please tell us what the reply was to this request?

Answer:

Admiral T.J. Hughes' response to the Maritime Administration's June 3, 1986, letter concerning the state academies' offer to outport and act as ship managers for RRF vessels expressed interest in the concept but no commitment.

It should be noted that the Navy makes the decision on where, what, and how many RRF ships are outported. The Maritime Administration is open to the concept of outporting C3 type RRF vessels at state maritime academy berths. Prior to this happening, however, detailed assessments of the available berthing would have to be completed to determine that the berths can properly support an RRF vessel, and to assess the effect such an RRF vessel will have on schoolship berthing. Once this has been accomplished, uniform contractual arrangements with state academies participating in the program would have to be developed along the lines of our present contracts with outport berth contractors.

Question: 2. Now that National Defense Reserve Fleet (NDRF) and Ready Reserve Force funding are within the MARAD budget, what are you prepared to offer the State academies in way of RRF outporting, general agency agreements, and associated monetary compensation?

Answer:

As indicated in our response to Question No. #1, the Navy makes the decision on where and how many RRF ships are outported. The outport plan started in September of 1985, and has been accomplished. At this time, no additional outporting initiatives have been proposed by the Navy.

If the outport plan is approved by the Navy for expansion to include RRF vessels at state maritime academy berths, preliminary site assessments indicate that Massachusetts, Texas, and the New York academies could each berth an RRF vessel. Compensation for the berthing of the ships would be negotiated based on any demonstrated costs to the academy.

While we view the state maritime academies as possible appropriate outporting berthing agents, there are inherent problems involved in having a public state agency managing an operational ship under national mobilization conditions.

Question: 3. When can the Congress expect to receive the legislative proposal for licensing and Naval Reserve commissioning of State academy graduates as suggested in your budget proposal for Operations and Training?

Answer:

The Administration's proposed bill "To authorize appropriations for the fiscal years 1989 and 1990 for certain maritime programs of the Department of Transportation, and for other purposes" was transmitted by the Secretary of Transportation by letters dated March 22, 1988, to the Speaker of the House and to the President of the Senate. The legislative changes proposed for the state academies' program are included in that proposed bill, which was introduced by Rep. Robert W. Davis, by request, on April 19, 1988, as H.R. 4405.

Question: 4. What is the status and on-line schedule for the MORMACTIDE, the vessel that will replace the existing State University of New York Maritime College training vessel, EMPIRE STATE?

Answer:

The MORMACTIDE is presently in the James River Reserve Fleet under dehumidification. A draft Invitation for Bids (IFB) was mailed to approximately 100 prospective bidders on April 20, 1988. The IFB is undergoing further internal review and approval. Fifteen sets of plans and specifications were also mailed April 20th to individuals who sent in $130.00 non-returnable checks.

The schedule for the contract is as follows:

- Bids open June 30, 1988.
- Contract Award September 8, 1988.
- Conversion/Repair Period 12 months.

Question: 5. What are MARAD's views and comments on the training vessel proposal submitted to you early in 1987 by Rear Admiral John J. Ekelund, USN (Ret.), the Superintendent of the California Maritime Academy?

Answer:

A proposal was received in early 1987 that certain RRF vessels could be converted to carry the complement of the smaller state academies. This proposal, received from RADM Ekelund of California, was transmitted to the Navy for comment. In general, there was a reluctance by the Navy at that time to lose the cargo space which the carriage of the Academy's complement would require.

Since then, Admiral Ekelund has proposed that cargo hold inserts be designed as removable facilities. While we have not formally communicated this recommendation to the Navy, we understand that the State Schools provided it to the Navy.

In addition to the potential problem of lost cargo space, Admiral Ekelund's proposal assumes that each State School will have its own training ship, which is contrary to the ship-sharing proposal in the 1989 budget. The conversion of three additional RRF ships, in addition to the already scheduled replacement of the EMPIRE STATE, would be expensive ($19.4 million each) and unnecessary, since in three previous studies, ship-sharing has been found to be feasible.

It also should be noted that the PATRIOT STATE is an RRF ship, and there is a possibility that Navy also will wish the replacement of the EMPIRE STATE to be an RRF ship.

Question: 6. Please comment on the testimony of the State maritime academies that a two-ship-sharing program by five academies will cost about $14 million a year -- or about twice as much as the present five-ship funding of $7 million a year for maintenance, repair, and fuel.

Answer:

We do not know the basis for the State Maritime Academies' claim that a two-ship-sharing program will double the cost of the current program. To the contrary, MARAD believes that ship-sharing will reduce the annual maintenance and repair cost by an estimated $800,000, as well as avoid the additional capital cost associated with replacing three more training ships, costing as much as $25 million per ship. We also believe that ship-sharing will increase cost control and accountability for Federal funds and property through the addition of shipkeeping staffs.

Question: 7. Please comment on the testimony of the State maritime academies with respect to:

Question: (a) the need for a feasibility study on ship-sharing;

Answer:

The Maritime Administration has prepared three "studies" on the subject of training ship-sharing between 1981 and 1986.

Copies of these draft "studies" were transmitted to Chairman Walter B. Jones, House Committee on Merchant Marine and Fisheries, by letter dated March 29, 1988. All of these studies concluded there would be significant cost savings from ship-sharing and all supported the feasibility of this proposal.

The requirement for training ship-sharing is not a recent one. For more than a decade MARAD has been actively discussing sharing of fewer ships with the state schools. The problem with the current arrangement is that it is not cost effective, in terms of both annual maintenance and repair expenses and eventual replacement of the existing training ships.

The estimated cost of building new training ships is estimated to be up to $100 million each. The cost of converting ships is $18.5 - $25 million based on the conversion of the PATRIOT STATE and the estimated cost of converting the MORMACTIDE. Thus, the cost of converting twenty-year-old ships is significant.

The Congress recognized this problem in the 1988 Continuing Resolution (P.L. 100-202) which provides that, "... no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration."

Consistent with this statute, the language of the 1989 budget proposes phasing in ship-sharing beginning in 1989.

Question: (b) safety of cadets and crew due to a lack of experience;

Answer:

We do not believe that ship sharing presents a safety problem to the cadets or crew. We are proposing a permanent shipkeeping staff which would support the state school operating personnel in ship familiarity. The ship would be delivered to the school in advance of the annual training voyage. There needs to be a highly regimented and disciplined approach to pre-voyage orientation that addresses safety and fire protection. The schools are sufficiently experienced and well equipped to respond to this challenge, with enhanced voyage safety as the incentive.

Question: (c) responsibility and liability;

Answer:
The Administration's proposal does not change the basic responsibility for the ships. The Government (MARAD) is still the owner and responsible for their maintenance and repair. The States are responsible for operation of the ships. MARAD's 7-person shipkeeping staff as proposed would be a support staff. The States provide operating crew and their own training staff to supervise the cadets.

The States have misconstrued the Government's proposal as providing for a Federal "operating crew." This is not correct. The Maritime Administration will continue to work with the state schools to define and clarify this point.

Question: (d) financial considerations;

Answer:
The FY 1989 budget clearly sets forth that the States will continue to fund the costs of providing an operating crew during the time the school has use of the ship, will provide its own training staff, and will fund operating costs, including consumables and fuel, during the time the school has use of the ship. The implementation study/plan under preparation with the schools will work out the details of how this will be done.

Clearly, some of these costs will be on a direct fund basis by the individual schools and other portions may be on a reimbursable basis with MARAD.

The state schools' statement has lumped a number of different costs together under the heading of operating costs and implied that the Government pays for all of them now and will continue to pay for them. This is not correct as the Government does not pay for all of them now and has not proposed any change in funding responsibilities.

Further, the statement includes RRF activation costs which are independent of the training ship program.

The statement includes new costs which MARAD also identified in its budget. However, the state school statement failed to offset these new costs with reduced maintenance requirements of having to maintain only two ships as opposed to five.

Question: (e) quality of training;

Answer:

There should be no change in the quality of training during training voyages under either scenario, as this is under the direct supervision of the state schools in either case.

Question: (f) loss of national assets;

Answer:

The Department of Defense has reviewed the value of the training ships for the national defense and, except for one ship, has declared that the training ships are not required for national defense. In fact, four training ships had been declared excess to the needs of the Department of Defense prior to the transfer of the ships to MARAD for use as training ships. If the Department of Defense requests a change in the status of any of these ships, MARAD could lay up the selected ships in the NDRF as an alternative to scrapping subject to the availability of funding.

Question: (g) problem of ship maintenance;

Answer:

The ship-sharing proposal under consideration provides a minimum of two 30-day periods for major maintenance. The shipkeeping staffs would maintain a continuous work list which would be combined with annual Coast Guard and American Bureau of Shipping and other regulatory inspection requirements. The contract for the work package would be awarded to make the ship available on the first day of this availability. Thirty days should be sufficient to complete the work.

Question: (h) scheduling of two-vessel-ship-sharing;

Answer:

Ship-sharing with two ships would necessitate changes in the yearly academic schedules of at most two schools, since training cruises could not be restricted to the traditional summer cruise months. There should be sufficient lead time before ship-sharing is implemented for those schools required to make academic scheduling changes to do so with a minimum of disruption.

Question: (i) accountability for State and Federal items on the shared vessels.

Answer:

Under the shared ship concept, the States would bring on board only those State-owned items needed for their training voyage and would remove them when the voyage was completed.

Federally owned items would be jointly inventoried before the state school came on board and again after the school had left. The State would be responsible for shrinkage.

Question: 8. What consideration had MARAD given to the impact ship-sharing will have on existing labor agreements and employment agreements of State personnel directly involved with the training vessels?

Answer:

MARAD is aware that some state maritime academies contractual employment agreements will need to be modified under ship-sharing. This is being examined as part of the ship-sharing implementation plan that is currently underway. However, MARAD believes that there will be sufficient lead time before ship-sharing is fully implemented for the schools to address these matters and, where necessary, negotiate new employment agreements.

Question: 9. What consideration has MARAD given to the argument that the Federal Government has no right to impose certain affirmative obligations upon a State's right to operate post-secondary educational facilities?

Answer:

MARAD is not imposing any obligation on State educational institutions that would infringe on the State's right to operate post-secondary educational facilities. The proposed requirements: (1) to pass the examination required for issuance of a merchant marine officer license; and, (2) to apply for and accept, if offered, a reserve commission as a condition for graduation, are conditions for receiving Federal support. These requirements are in keeping with the intent of the Merchant Marine Act, 1936, as amended, Section 1301(1) which states:

> "the Secretary of Transportation is authorized to take the steps necessary to provide for the education and training of citizens of the United States who are capable of providing for the safe and efficient operation of the merchant marine of the United States at all times and as a naval and military auxiliary in time of war or national emergency."

Question: 10. Do you feel authorizing legislation is required for the Department of Transportation to borrow funds from the Treasury to reimburse the Department of Agriculture for payments under the ocean freight differential system?

Answer:

The Congress provided permanent authorization for this program in Sections 901d(d) and 901e of the Merchant Marine Act, 1936. This coupled with the permanent indefinite appropriation provided in the 1988 Continuing Resolution (P.L. 100-202) permits simultaneous borrowing, payment to the Commodity Credit Corporation, and liquidation of the borrowing so that additional authorizing legislation is not considered necessary. The

Appropriations Committees noted that these payments are mandatory and cannot be controlled by the Maritime Administration and are indefinite in amount. Accordingly, the Committees approved the request for an indefinite appropriation which is authorized in law.

Question: 11. I understand that MARAD recently refinanced a loan for the vessel OMI COLUMBIA under the Title XI program. Was the company in financial trouble and, if not, is this a valid use of the Title XI program?

Answer:

OMI is not in financial trouble. The refinancing provisions of the Title XI statute have been used on numerous occasions over the years, and have been recognized by the Congress as a valid use. The refinancing in this case was appropriate because it assisted the shipowner in reducing its debt service on the OMI COLUMBIA. The shipowner has also agreed to use a large portion of its savings to pay down, on an accelerated basis, other Title XI obligations.

Question: 12. Do you feel the Title XI fix in last year's Authorization bill would satisfy the Administration's desire to curb the program?

Answer

The Administration continues to believe that the Government's involvement in the credit market should be curtailed and has proposed termination of the Federal Ship Financing program.

Question: 13. I understand the Administration would like legislative language making permanent the authority of the Secretaries of Commerce and Transportation to foreclose on a defaulted Title XI mortgage holder who is operating under Chapter 11 of the bankruptcy laws. Does the Maritime Administration hold public hearings or solicit publicly-available comments from affected companies when it is considering a restructuring package for the defaulted vessel? If not, would you be willing to do so?

Answer:

Bankruptcy proceedings are open to the public and affected parties can comment on any reorganization and, if they are a creditor, vote on any reorganization plan. In bankruptcy proceedings MARAD, in conjunction with the Department of Justice, takes actions to protect the Government's interest while remaining sensitive to the conditions in the affected market.

ADDITIONAL QUESTIONS SUBMITTED BY THE HONORABLE GLENN M. ANDERSON, MEMBER, SUBCOMMITTEE ON MERCHANT MARINE, TO THE MARITIME ADMINISTRATION ON H.R. 4200, FISCAL YEAR 1989 MARAD/FMC AUTHORIZATION (MARCH 23, 1988 HEARING)

Question: 1. As you know, I introduced H.R. 2032, a bill that would provide the National Defense Reserve Fleet vessel, LANE VICTORY to a nonprofit organization for use as a merchant marine memorial. This bill passed the Committee on Merchant Marine and Fisheries as well as the House unanimously. Now, I realize that the Administration has some concerns over this bill out of its fear that there may be a flood of liability claims against the Government in the event of asbestos exposure. We took care of that stated concern with a simple amendment offered by Chairman Jones which would clarify that the organization to receive the vessel would be required to sign an indemnity and hold harmless agreement to protect the Government from the possibility of such claims. Why then does the Administration still have a problem with H.R. 2032?

Answer:

The problem referred to centers on the requirement that the recipient of the LANE VICTORY hold the Government harmless for any claims resulting from exposure to asbestos after conveyance of the vessel. We are concerned that the nonprofit corporation receiving the LANE VICTORY for use as a merchant marine memorial would not have the necessary assets to hold the Government harmless for such claims. In this regard, the report of the Merchant Marine and Fisheries Committee (House Report No. 100-509) provides that as of January 1986, the intended recipient of the LANE VICTORY, the U.S. Merchant Marine Veterans of World War II, had $5,000, derived from membership dues and donations. Clearly, such funds would be totally inadequate to undertake this responsibility required by H.R. 2032.

Question: 2. Mr. Gaughan, it is clear that -- based upon its reaction to H.R. 2032 -- the Administration fears the issue of liability claims. I would like to know then whether it makes sense to adopt a ship-sharing agreement between the State academies since MARAD, as I understand it, would likely be accepting greater liability in a ship-sharing plan than it would if the State academies were to receive their own replacement vessels?

Answer:

The Administration is and must be concerned with any change in the liability exposure of the Federal Government in a ship-sharing plan. In our view of ship-sharing, there would not be greater liability on the part of the Federal Government.

The essence of the thinking to date is that under ship-sharing the relationship remains basically a bareboat charter by the Federal Government to the state academy. Excepting the Federal Government's continuing maintenance and repair responsibility under the statute, the vessel, for all purposes, is a state ship, and the States are responsible for all incidents while they hold the ship.

Question: 3. A couple of weeks ago, the Committee on Merchant Marine and Fisheries held a hearing which featured testimony by the Secretary of Transportation. During the question-and-answer period, I asked Mr. Burnley for his thoughts on the possibility of replacing State maritime academy vessels with a vessel from the Ready Reserve Force (RRF) that would be made available for use in a national emergency. Mr. Burnley said that, conceptually, there is no problem so long as the vessel would be made available in an emergency. You added to Mr. Burnley's comment by saying, "Mr. Anderson, that is an idea that we will be seriously looking at." Well, how seriously are you looking at this proposal, and what kind of progress are you making in reviewing this RRF training vessel proposal?

Answer:

At present one of the training vessels (PATRIOT STATE) is an RRF vessel. We are currently working with Navy toward qualifying the EMPIRE STATE's replacement ship for RRF status.

1111

ONE HUNDREDTH CONGRESS

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April 26, 1988

Honorable John A. Gaughan
Administrator
Maritime Administration
Department of Transportation
Washington, D.C. 20590

Dear Mr. Administrator:

In addition to the questions forwarded by my letter of April 8, 1988, I would appreciate a reply to each of the allegations and statements made by the presidents and superintendents of the maritime academies/colleges during the March 23, 1988 hearing on H.R. 4200, authorization for appropriations for fiscal year 1989.

As you know, the State schools have consistently provided this Committee with negative testimony on the ship-sharing concept since it was first informally proposed in 1980. The Maritime Administration (MARAD), on the other hand, has provided limited testimony and information on the controversial issues.

We must assume that MARAD has undertaken and completed the necessary feasibility/cost analyses prior to formalizing the ship-sharing proposal. Therefore, a timely response is requested to permit the Committee on Merchant Marine and Fisheries to make value judgments within our responsibility to oversee the Federal-State maritime training relationship.

Sincerely,

Walter B Jones

WALTER B. JONES, Chairman
Subcommittee on Merchant Marine

WBJ:cm

cc: Honorable Norman F. Lent

US Department
of Transportation
**Maritime
Administration**

Administrator

400 Seventh Street, S W
Washington, D C 20590

June 10, 1988

The Honorable Walter B. Jones
Chairman, Subcommittee on Merchant Marine
Committee on Merchant Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your recent request 26 april 1988 for our views on the allegations and statements made by the Presidents and Superintendents of the Maritime Academies/Colleges during the March 23, 1988, hearing on H.R. 4200, the maritime authorization bill for fiscal year 1989.

These allegations and statements are set forth in the prepared statement of the Presidents and Superintendents of the Maritime Academies/Colleges of California, New York, Maine, Massachusetts, the Great Lakes Region and Texas, that was submitted for the record at the March 23, 1988, hearing of the Subcommittee on Merchant Marine on H.R. 4200.

Additionally, our views have been requested with respect to the allegations and statements in the prepared statement of the above parties at the April 12, 1988, hearing of the House Appropriations Committee.

These two statements are very similar, and in order to be as responsive as possible, we have prepared our views paper with respect to the allegations and statements made in both prepared statements, copy enclosed. A copy of this paper is also being forwarded to the Chairman of the House Appropriations Committee.

As you know, there is considerable duplication in the allegations set forth in these prepared statements. Therefore, where this occurs, we have responded to the broad general allegation.

As noted in my testimony at the March 23 hearing, and as noted in the budget justification submitted to the House Appropriations Committee, we are conducting a comprehensive ship-sharing study in collaboration with the State schools to develop a ship-sharing implementation plan. Most of the statements on ship-sharing presented in the State school testimony pertain to issues which will be analyzed in detail in the course of completing the collaborative study. The Presidents and Superintendents of the Maritime Academies/Colleges are fully aware that these issues will be resolved jointly in the study, and we believe it was premature and inappropriate for them to present conclusions regarding open issues in their testimony. While we recognize that our views on various aspects of ship-sharing may change as a result of further discussion and analysis, our comments on the allegations and statements presented in the State school testimony reflect our analysis supporting the ship-sharing proposal presented in the FY 1989 budget.

If I can be of further assistance, please let me know.

With kindest personal regards, I am,

Sincerely,

Wm A Creelman

f JOHN GAUGHAN
Maritime Administrator

Enclosure

MARITIME ADMINISTRATION

Comments in Response to the Allegations and Statements made by the Presidents and Superintendents of the Maritime Academies/ Colleges in Prepared Statements dated March 23 and April 12, 1988.

GENERAL COMMENTS

The Administration regrets the adversary position taken in the March 23rd and April 12th statements (Statements) of the Presidents and Superintendents of the Maritime Academies/Colleges (State Maritime Schools). We also regret that in the face of the most dramatic changes in the maritime industry since World War II, these State Maritime Schools have very little to offer in the way of new ideas.

The Administration's position is affirmation of continued support in spite of waning peacetime demand for school graduates. This position is based on the need to assure adequate manpower availability in the event of a national emergency. The Statements simply promote the status quo in spite of the anomalies brought about by the changed demand for graduates and the increased need for fiscal responsibility. The Administration's proposal presses for meaningful commitments which are fair to the students who benefit from Federal support.

The Statements attempt to preserve a student incentive payment system which is geared to commitments to take peacetime maritime jobs. Yet, these jobs are in short supply, and less than one third of the graduates make the commitment. The alternative of channeling the $1,100,000 level to direct payments could enable the State Maritime Schools to pursue any number of beneficial options, including scholarships to students based on the schools' own criteria. Conversely, the Statements uncompromisingly oppose requirements for licensing and application for reserve commissions, even though both of these requirements are already in place in parts of the State Maritime School system.

The Statements also advocate continued operation of training vessels which are 48, 44, and 36 years old when two newer vessels would be adequate.

In short, we believe the positions in the Statements are not supported in fact, and jeopardize continuation of Federal support to the State Maritime Schools. There is no need for conflict. On the other hand, the Administration has urged a cooperative approach with the State Maritime Schools whereby details on schoolship-sharing can be worked out with a smooth transition to actual schoolship-sharing beginning in 1990. Further, it is imperative that students be required to pass the Coast Guard license exam since this is the basis for Federal involvement. Finally, the reserve requirement is designed to assure that students will be available during their call-up period for merchant shipping under a program where they would be given that option in lieu of Naval service.

Training Ship-Sharing

Need for a Feasibility Study

With respect to the allegations that a feasibility study is required, it should be noted that the requirement for training ship-sharing is not a recent one. For more than a decade the Maritime Administration has been actively discussing sharing of fewer ships with the State Maritime Schools. This requirement is based on the lack of suitable ships and the costs of constructing new ships, or acquiring and converting older ships, to replace existing old ships. The Maritime Administration has prepared three papers on the subject of training ship-sharing between 1981 and 1986, copies of which were transmitted to the Chairman of the House Committee on Merchant Marine and Fisheries by letter dated March 29, 1988. We will be pleased to make these papers available to the Chairman of the House Committee on Appropriations. All these analyses concluded there would be significant cost savings from ship-sharing, and all supported the technical feasibility of this proposal.

These ship-sharing analyses were generally driven by the lack of suitable Government-owned vessels for this purpose, and the very high cost of acquiring and converting old ships to serve as training ships. The current cost to build a new training ship is estimated to be from $50 million to $100 million. Based on the recent conversions of the PATRIOT STATE and the MORMACTIDE, the cost of converting a ship is estimated to be from $18.5 million to $25 million.

The Congress recognized this problem in the Continuing Resolution for Fiscal Year 1988 (Public Law 100-202) which provides that, "... no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration ...". The President's Budget for Fiscal Year 1989 proposes that when the Government completes conversion of the MORMACTIDE, ship-sharing should be instituted. The budget recognizes that sincere cooperation on both sides will be necessary if the Government is to continue to provide vessels to the State Maritime Schools for use as training ships.

Costs

We cannot agree with the $14 million cost estimate provided by the State Maritime Schools. This estimate would appear to include the following costs that are not for the account of the Maritime Administration: (i) $1.5 million for fuel, and $2 million for consumables that should continue to be borne by the states as operating costs; and (ii) $2.4 million for Department of Defense financed costs for Military Sealift Command exercises. In addition, estimates for a shipkeeping staff would appear to be high ($4 million compared with $1.0 million for two ships) and maintenance costs would appear to be low ($3 million compared with the Federal estimate of $4.3 million when we attain a two-ship program). Finally, we propose no increase in our fleet operations staff, while the State Maritime Schools have added $0.4 million for this function. Our best estimate for this ship-sharing proposal is that it will cost about $5.7 million annually.

The major cost savings to the Federal Government of ship-sharing is the avoidance of capital costs involved in replacing a large number of training ships: $18.5 million to $25 million per vessel for conversion; $50 million to $100 million for new construction. Additionally, because maintenance and repair work (M&R) will be limited to two rather than five vessels, we will save an additional (estimated) $800,000 annually.

General Ship-Sharing Procedure

Under our proposal, the State Maritime Schools would continue to provide and fund their requisite ship operating crews, training staffs, fuel, and other operating costs during training voyages. The Federal Government would assume the new responsibility for supporting a nucleus shipkeeping staff on each vessel to control housekeeping and maintenance costs on the vessels. This staff will give us increased control and accountability over Federal property.

The existing training ships located at the State Maritime Schools would be offered to them for use as alongside laboratories at no cost to the Federal Government. If the State Maritime Schools reject the ships, they would be scrapped or, subject to Navy needs, laid up in the National Defense Reserve Fleet (NDRF) at no cost to the State Maritime Schools program.

Safety and Experience of Cadets and Crew

The Statements also make certain allegations concerning the safety implications of our ship-sharing proposal. The State Maritime Schools currently maintain some ship crew personnel year round. Under ship-sharing these year-round crews would not be necessary. A permanent shipkeeping staff will support the State Maritime Schools' operating personnel in ship familiarity. The ship will arrive at the school about 30 days prior to the annual training voyage. There will need to be a highly regimented and disciplined approach to pre-voyage orientation that will address safety and fire protection. The State Maritime Schools are sufficiently experienced and well equipped to respond to this challenge, with enhanced voyage safety as the incentive.

Responsibility and Liability

The Administration's proposal does not change the basic responsibility for the ships. The Government (Maritime Administration) is still the owner and responsible for their maintenance and repair. The States retain basic responsibility for operation of the ships. The proposed shipkeeping staff of up to seven persons is not the "ship operating crew." The schools will provide requisite operating crews and also will provide their own training staffs to supervise the cadets.

The 1989 budget does not propose any change in Federal and State liabilities. The current proposal would leave intact the present liability exposure as between the State Maritime Schools and the Federal Government.

Use of RRF Vessels as Training Ships

The Administration's position is to support the two ship, ship-sharing concept, using the PATRIOT STATE and the new generation EMPIRE STATE as training vessels for five State Maritime Schools. Therefore, the proposal by the California Maritime Academy to convert a number of RRF vessels to partial troopships and use them as replacements for present State Maritime School training ships, does not fit the two ship, ship-sharing concept.

It should be noted that Appendix B of the Statements shows that total costs for this proposal would exclude M&R of such vessels by funding them in the RRF budget. Funds for the RRF program are appropriated to "maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs." If the Navy were to identify an RRF requirement for troopships in the number and configuration of a five ship program, then RRF funding for surge shipping costs could be appropriately charged to the RRF appropriation.

However, surge shipping costs are unrelated to the State Maritime School budget. Additionally, this would not reduce costs to the Government. Thus, the implied savings are not real. The Maritime Administration recommends that the higher annual operating costs, which are related to cadet education requirements, continue to be set forth in the State budget. The Maritime Administration and the Navy are currently examining what additional work may be needed for the New York replacement vessel to meet Navy requirements and be classified as an RRF vessel as it is suitable in size for that purpose. However, annual maintenance costs would remain in the State Maritime School budget.

Outporting of RRF Vessels at the Schools

Admiral T.J. Hughes' response to the Maritime Administration's June 3, 1986, letter concerning the State Maritime Schools' offer to outport and act as ship managers for RRF vessels expressed support for the general concept rather than a specific commitment.

It should be noted that the Navy makes the decision regarding what, where, and how many RRF ships are outported. The Maritime Administration is open to the concept of outporting C3 type RRF vessels at State Maritime School berths. However, a sizeable array of Navy and State School requirements would have to be considered before any judgments could be made on the acceptability of this suggestion.

Quality of Training

A question has been raised as to whether the ship-sharing proposal would result in an erosion of the quality of training. There appears to be no reason why this should be the case if the State Maritime Schools continue their excellent at-sea and shoreside training programs. At-sea training would continue to be provided on the shared training ship under the direct supervision of the State Maritime Schools. The shared ships are expected to provide improved training platforms compared with the existing training ships.

Ship Maintenance

The Statements also question training ship maintenance under our proposal. The ship-sharing proposal under consideration provides a minimum of two 30-day periods for major maintenance. The shipkeeping staffs would maintain a continuous work list which would be combined with annual Coast Guard and American Bureau of Shipping and other regulatory inspection requirements. The contract for the work package would be awarded to make the ship available on the first day of this availability. Two 30-day repair periods will be sufficient to complete the necessary work.

Scheduling of Two-Vessel Ship-Sharing

With respect to the allegation of hardship resulting from ship-sharing, we note that it would necessitate changes in the yearly academic schedules of not more than two State Maritime Schools, since training cruises could not be restricted to the traditional summer cruise months. There should be sufficient lead time before ship-sharing is implemented for those State Maritime Schools required to make academic scheduling changes to do so with a minimum of disruption. Sufficient lead time should also be available for State Maritime School negotiations with faculty and permanent ship-crew labor unions.

Property Accountability

The Statements take the position that property accountability on the shared training ships would be extremely difficult. We disagree. Under the shared ship concept, State Maritime Schools would bring on board those State-owned items needed for their training voyage and would remove them when the voyage was completed.

Federally owned items would be jointly inventoried before the State Maritime School came on board and again after the school had left. The State would be responsible for shrinkage.

Rehabilitation Act of 1973; Age Discrimination Act of 1975

The allegation has been made that requiring all State Maritime School Cadets to apply for a commission in a reserve unit of the armed forces will exclude from merchant marine officer status all citizens who are unable to fit within the armed forces commissioning standards, and raises questions as to compliance with section 504 of the Rehabilitation Act of 1973, barring discrimination on the basis of physical handicap, and the Age Discrimination Act of 1975, as amended, barring discrimination against those of age 40 or older.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) provides that "No otherwise qualified individual with handicaps in the United States, as defined in section 7(8) (29) U.S.C. 706(8) shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discriminations under any program or activity receiving Federal financial assistance...".

While the physical standards for members of the armed forces are generally more stringent than for merchant marine officers, the application of such standards in this case does not violate section 504 of the Rehabilitation Act of 1973. The Administration's proposal would require only that State Maritime School Cadets apply for a commission in a reserve unit of the armed forces. If an applicant is unable to meet the physical requirements, there is no penalty, and the individual's standing with respect to the State Maritime School would not change. The same would be true for the allegation concerning the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.), barring discrimination against individuals of age 40 or older. If the applicant is unable to meet the age requirements of an armed force, there is no penalty, and the individual's standing with respect to the State Maritime School would not change.

As a practical matter, we do not perceive any sort of problem with respect to either statute. For some time, these requirements have applied to students at the State Maritime Schools in consideration for receiving Student Incentive Payments. Now, in lieu of Student Incentive Payments and in consideration of a State Maritime School receiving Federal assistance, we propose that all entering U.S. students agree as a condition for graduation to (a) pass the examination required for issuance of a merchant marine officer license; and (b) apply for and accept, if offered, a reserve commission in one of the armed forces, and if accepted to serve six years. Rejection by an armed service would not change their standing with respect to the State Maritime Schools, but only free them from any Government obligation. Therefore, we strongly disagree with this allegation by the State Maritime Schools.

Tenth Amendment to the Constitution

The allegation has been made that our new proposal would control admissions/graduation requirements for the State Maritime Schools, conditioning them to approximate the Federal Merchant Marine Academy, raising constitutional questions under the Tenth Amendment which addresses States' Rights guarantees.

The Tenth Amendment to the Constitution provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The Administration's proposal only conditions federal assistance (federal payments as well as the availability of a training ship) to the State Maritime Schools, so that the graduates of such schools will be available as licensed merchant marine officers for purposes of mobilization in a national emergency. There is no requirement on the State Maritime Schools to accept this assistance. The proposed requirements (a) to pass the examination required for issuance of a merchant marine officer license; and, (b) to apply for and accept, if offered, a reserve commission as a condition for graduation, are conditions for receiving federal support. These requirements are reasonable and in keeping with the intent of section 1301(1) of the Merchant Marine Act, 1936, which provides that: "the Secretary of Transportation is authorized to take the steps necessary to provide for the education and training of citizens of the United States who are capable of providing for the safe and efficient operation of the merchant marine of the United States at all times and as a naval and military auxiliary in time of war or national emergency."

Merchant Marine Manpower Requirements and Naval Reserve Status

Throughout the Statements the State Maritime Academies have made a number of allegations and statements of fact concerning merchant marine manpower requirements, Naval Reserve status for graduates and related matters. It is worth listing a cross section of these as an introduction to our response comments. (Note: text underlined as in the Statements.)

> " ... President himself in the January 1987 report entitled National Security Strategy of the United States specifically cites, the lack of Merchant Mariners in the near term could impede our ability to adequately project and sustain forces by strategic sealift. (emphasis added.) As pointed out, the 1986 Navy Merchant Marine Manpower Study and relevant studies find the United States will be critically short of personnel to man just the Ready Reserve Force and U.S.-Flag ships by 1992 ...."
>
> " ... The commission, as well as the 1986 Navy Merchant Marine Manpower Study and GAO 1986 report on the Ready Reserve Force, clearly points out that unless actions are taken to correct the downward trend, the number of mariners required to be available to man our ships by the year 2000 will be reduced by one-half ... Young vital dedicated men and women are needed to replace them ...."
>
> " ... We request that the present U.S. Naval Reserve/Merchant Marine Reserve Commissioning Program be left in place and not be phased out until some mechanism for ensuring the availability of an adequate number of trained Merchant Mariners in time of national emergency is worked out ...."

" ... State Maritime Academies exist under law to train officers for Merchant Marine, not the Navy! ...."

" ... As noted in part 310.4(a)(5) of 46 CFR, the ships are specifically provided for the training of licensed Merchant Marine Officers. No mention is made of the production of Naval Reserve Officers. It is urged that the Congress reject that linkage ...."

" ... Section 1304 of the Maritime Education and Training Act states that the purpose of the academies is to provide instruction to individuals to prepare them for service in the Merchant Marine. Nowhere is a Naval Reserve Commission even implied ...."

" ... Levying the admissions/graduation requirement on all Cadets of accepting a commission, if offered, without any quid pro quo such as SIP and without any "enforcer" is folly ...."

" ... Linking a Merchant Marine Reserve Commission to graduation also links it to admissions. By doing so, young men and women who are physically qualified for a Merchant Marine Officer's license but not a Naval Reserve Commission will in all probability not apply. ... Why start with the recruits when all studies point out they are needed as Merchant Marine Officers now ...."

" ... request that Coast Guard licensing not be required as a condition for graduation from a State program ...."

" ... They earn Federal licenses along with their degrees while in a uniformed and disciplined environment ...."

" ... the Administration annually seeks to reduce the maritime education and training budget ... This very small savings to the Federal Government imposes a severe training hardship on our institutions while reducing the incentive to develop an adequate number of required Merchant Marine Officers and a Merchant Marine Reserve component of the U.S. Naval Reserve ...."

Response to these Allegations in the Statements

Legislative Background as to Purpose

The purpose of the Maritime Administration's merchant marine manpower program is stated in Title XIII, Section 1301, of the

Merchant Marine Act, 1936, as amended. Title XIII was added to the 1936 Act by the Maritime Education and Training Act of 1980 (Public Law 96-453), which was the culmination of the 1978 Oversight Report of the Ad Hoc Select Subcommittee on Maritime Education and Training.

House Report 96-1139 on the Maritime Education and Training Act of 1980 states that, "...Section 1301, the policy section of Title XIII, of the Merchant Marine Act, 1936, as amended, gives recognition to the primary objectives of Title XIII: the training of United States citizens so that they are fully qualified to perform the following functions:

"(a) Serve as merchant marine officers on U.S.-flag merchant vessels in the foreign and domestic commerce of the United States.

"(b) Serve as merchant marine officers on U.S.-flag merchant vessels operating as a naval or military auxiliary, and

"(c) Serve on active duty in the United States Navy or other armed force of the United States ....".

The fundamental basis for Federal assistance is therefore directed to training individuals as officers in the merchant marine, who are also "... fully qualified to ... serve on active duty in the United States Navy or other armed force of the United States ...."

The Administration's proposal recognizes problems with some individuals being qualified for a merchant marine officer's license but not being qualified for the armed services. Hence, the language "... to apply for and accept, if offered ...." However, it should be noted that the Government has no hold on an individual who has a license but no reserve commitment.

The Maritime Administration is concerned about the inferences in the Statements that the State Maritime Schools are currently recruiting students without regard to requiring that they obtain a merchant marine license or be available for call up during national emergencies. The Administration's proposal does not limit the curriculum of any State school, only the use of federal support, including the training ship, provided the school. As the Statements acknowledge, the training ships "... are specifically provided for the training of licensed Merchant Marine Officers ...." It is reiterated that the Administration's proposal only applies to those students "... entering a merchant marine officer preparation program ...." and does not intrude on any other courses of instruction. In short, our objective is to assure that the federal support is directed to training of licensed merchant marine officers and that these individuals are available for service in the merchant marine during a national emergency, or, alternatively, for active duty in the armed services.

Supply and Demand

There is no current shortfall of merchant marine officers in the active merchant fleet. The Navy Merchant Marine Manpower Study dated July 2, 1986, assumed manpower requirements for full mobilization, including activation of the RRF and NDRF ships, augmented by NATO ships with augmented merchant ship crews for wartime operations and the availability of qualified seafarers in the actively sailing workforce to meet these requirements. The study did not either estimate or take into account the reserve of qualified personnel in shoreside employment who might also be available for mobilization purposes. This comparison resulted in the following calculated shortages:

Projected shortfall in 1992	Licensed	Unlicensed
Deck officers..................	795	
Engine officers (steam)........	699	
Engine officers (diesel).......	0	
Deck unlicensed................		3,671
Engine unlicensed (steam)......		1,466
Engine unlicensed (diesel).....		84
Radio officers.................		116
Steward department.............	....	1,295
Total.......................	1,494	6,632

As the numbers clearly indicate, the major concern is for skilled deck and engine unlicensed personnel. The State Maritime School program does not play any role in the solution of this shortage.

U.S. Coast Guard records as of April 1986 indicate that there are in excess of 20,000 holders of valid deck and engine officer licenses in the inactive workforce to meet this requirement, as well as initial licensees from the Merchant Marine Academy and industry programs. The State Maritime School program, even at a reduced level, would provide additional insurance to these sources. Shortfalls in licensed officers are a concern, however, and the problem is under continued review by the Maritime Administration and the Navy. This concern is a basis for continued support of the State Maritime School program.

The alleged advancing age of the active workforce does not hold true for deck and engine officers. The following statistics demonstrate that the median age of actively sailing deck and engine officers has declined significantly over the past ten years.

MEDIAN AGE

Deck and Engine Officers
Sailing on Commercial Oceangoing Ships
1,000 Gross Tons and Over

	1976	1978	1980	1982	1984	1986
Deck officers	50.6	50.6	50.0	47.8	45.5	42.4
Engine officers	50.3	50.2	46.7	43.8	41.5	39.7

Note: Includes all deck and engine officers who sailed under Articles in each given year.

Service Obligations for State School Graduates

The Administration proposes to phase out the student incentive payment (SIP) program, and replace it with an alternative program which will provide a greater payback to the Federal Government and provide additional direct dollar support to the State Maritime Schools. Specifically, the Administration proposes that the State Maritime Schools require all students in a merchant marine officer preparation program (i) to pass the examination required for issuance of a merchant marine officer license, and (ii) to apply for and accept, if offered, a reserve commission as a condition for graduation. The Administration further proposes that funds made available from the phase-out of the SIP program be used for increased direct payments to the State Maritime Schools, if the authorized maximum direct payment per school is increased by the Congress from $100,000 to $400,000 annually.

The proposed program is premised on the fact that all students in a merchant marine officer preparation program at the State Maritime Schools benefit from the annual direct payment to the school and from the training ships that the Federal Government provides, the training ship being the most costly form of assistance. The average cost for maintaining a training ship is about $1,200,000 per year, while the maximum student incentive payment to students at any single school is about $450,000 per year.

Therefore, it is reasonable to require all State Maritime School students in the merchant marine officer preparation program who must receive training on a training ship to obtain their licenses and have a Naval or other reserve commitment on graduation, and not just the State School students who voluntarily apply for a commission or receive SIPs. Without a Naval or other reserve requirement for all graduates to ensure their availability during a national emergency, there is no policy justification for continued federal assistance to the State Maritime Schools since the supply of merchant marine officers continues to exceed current commercial demand substantially.

It is noted that most students in the current merchant marine officer preparation program pass their licensing examinations prior to graduation as shown in the following table:

State Marine Schools

Number of 1987 Graduates Passing Licensing Examinations

School	Number of Graduates	Passed Examination Prior to Graduation
California.....	87	87
Maine..........	146	106
Massachusetts..	172	171
Michigan.......	22	22
New York.......	153	128
Texas..........	28	26
Total.......	608	540

Note: Passing U.S. Coast Guard licensing examinations is a condition for acceptance in the Merchant Marine Reserve, U.S. Naval Reserve. Once the students graduate, the schools do not keep records on whether they subsequently retake failed sections of the licensing examination. It is a reasonable assumption that they retake the examination in order to obtain their license.

Assistance payments to cadets were part of the Maritime Academy Act of 1958 as an encouragement to students to attend the State Schools under a policy to ensure an adequate supply of highly qualified merchant marine officers for our peacetime commercial merchant marine. The payments were linked then, as they are now, to a requirement that the recipient apply for and, if offered, accept a reserve commission. The Maritime Education and Training Act of 1980 added a further obligation of employment in the merchant marine. There are substantial difficulties in the enforcement of this employment obligation as our merchant marine has declined. At the same time, there is an increasing federal need to ensure the availability of an adequate supply of well trained merchant marine officers during a national emergency.

Therefore, it is only reasonable that the SIP program be phased out and replaced by an alternative that better fulfills the current needs.

The SIP program, to which this obligation is currently linked, is not working. Only a minority of the graduates, all of whom benefit from the major portion of federal support to their schools, accept an obligation to respond to the needs of the Nation in time of war or national emergency. For instance, 587 SIPs were awarded to the classes of 1986 in their Freshman year, but only 151 accepted their obligations at point of graduation. This represents less than 22 percent of the 700 total graduates. In the most recent classes of 1987, 652 SIPs were awarded in the Freshman year, but only 200 were obligated on graduation. This is less than 33 percent of the 608 total graduates.

In our view all merchant marine officers produced with federal support should be committed to the mobilization obligation to sail as merchant marine officers which is provided through the Merchant Marine Reserve, U.S. Naval Reserve, or to serve in reserve units of the other armed services.

The predominant reserve program to which all federal support for the academies is now linked is the Merchant Marine Reserve, U.S. Naval Reserve program. This link continues under the Administration's 1989 budget proposal. This program was specifically created to ensure the availability in time of national emergency of merchant marine officers with specific training in the operation of their merchant ships in support of the armed services. This program does not have as its primary objective the acquisition of active duty officers in the Navy. During mobilization, Merchant Marine Reservists will sail on merchant ships in their merchant marine officer professions using skills acquired in the reserve to interface with the Navy. In peacetime, Merchant Marine Reservists are eligible to participate in annual two-week active duty for training which is intended to reinforce the close relationship between the Navy and merchant marine and to keep the reservists up to date on naval operations. Some Merchant Marine Reservists drill on a monthly basis. Although some graduates may elect to join other Armed Forces reserve components, even in those instances there is a payback to the Federal Government in conditions of mobilization.

Funding is included in the DOD's Naval Reserve budget for the Merchant Marine Reserve, U.S. Naval Reserve ($2.0 million in FY-1989). Funding for this program could increase as additional graduates are commissioned as a result of MARAD's proposed program. However, this is an effective means to maintaining a specifically trained mobilization manpower base. Insofar as the Navy's current funding level reflects accessions into the MMR, USNR program, the funding level in turn reflects the ineffectiveness of the current SIP program in which fewer than one-third of the original number of cadets accepting SIP's actually accept commissions on graduation.

The primary objective of the Administration's proposal is to obtain a reasonable return on its investment in the State Maritime School program that is tailored to the needs of the Government. The proposed payback for a State Maritime School graduate is availability for service in an emergency. The Administration's proposal represents a commitment to continued federal support for the State Maritime Schools conditioned on a direct linkage of that support to a more reliable pool of seafarers committed to respond to future mobilization and national emergency requirements. We consider this an affirmation and strengthening of the role of the State Maritime Schools in our national defense planning.

US Department
of Transportation
**Maritime
Administration**

Administrator

400 Seventh Street S.W.
Washington, D.C. 20590

16 APR 1988
(16 April 1988)

Honorable Walter B. Jones
Chairman, Committee on Merchant Marine
  and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

During the March 23, 1988, hearings before the Subcommittee on Merchant Marine of the House Merchant Marine and Fisheries Committee, a number of issues were raised by Subcommittee members concerning the Administration's proposals for continued Federal support of the state maritime academies. The discussion during that hearing was less than adequate for a full understanding of the Administration's point of view. Accordingly, I am submitting this letter as a supplemental statement for the record to more fully address the basis for the Administration's proposals.

First, I would like to address the training ship issue. At present the Maritime Administration owns and maintains five large oceangoing ships, providing one to each of the state academies in Maine, Massachusetts, New York, Texas and California. By agreement no vessel is provided to the Great Lakes Academy in Michigan because its students train on active Great Lakes ships. These ships range in age from 48 years (T.S. GOLDEN BEAR, California Maritime Academy) to 24 years (T.S. PATRIOT STATE, Massachusetts Maritime Academy). The advanced age, continually deteriorating condition and constantly increasing maintenance costs of these ships have long been of concern to the Maritime Administration. The individual schools operate these ships for slightly more than two months each year. For more than a decade we have been actively discussing with the schools the sharing of fewer ships. This ship-sharing concept was, and is, intended to increase the effectiveness of Federal maintenance cost expenditures and to improve the quality of fewer ships from a training and safety standpoint, as well as to address the inevitable major costs of ship replacement.

The feasibility of ship-sharing was demonstrated during three years when ships were shared as a result of major deterioration on one ship and a disastrous fire (in which one cadet died) on another. Following these unfortunate events the schools in Massachusetts, Maine and New York successfully shared remaining ships, albeit on an ad hoc basis.

The Congress itself demonstrated concern for the major cost of replacements as recently as December 1987, in the passage of the Full Year Continuing Resolution, P.L. 100-202, which states:

> "That hereafter no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration." (underline added)

This language clearly calls for development of a plan for sharing. We consider the feasibility to have been demonstrated by the earlier ad hoc instances and supported by our own analyses over the past several years, copies of which were provided to the Subcommittee on March 29, 1988.

In order to provide the schools with the opportunity for full participation in development of the plan for sharing, I transmitted a draft outline to them in January, for their comment. On February 26, I met with the state academy superintendents and presidents here in Washington and committed to undertake an open and collaborative study effort. That study is underway and the academies are providing comments and information.

The inevitable costs of replacements for these ships will obviously be much less for a smaller fleet. Similarly, maintenance expenditures will be less with fewer ships than when spread over a five-ship fleet. The personnel continuity of a MARAD-supported ship-keeping staff will be an improvement in controlling repair costs. We especially need to avoid the type of incidents which have occurred while the ships were fully in the hands of the state academies, such as dry-firing of boilers, flooding of machinery spaces and other occurrences which have resulted in major unprogrammed maintenance and repair costs paid for by the Maritime Administration.

The second major issue addressed at the hearing was the Student Incentive Payment (SIP) program.

Direct payments to cadets were part of the Maritime Academy Act of 1958 as an encouragement to students to attend the state schools under a policy to ensure an adequate supply of highly qualified merchant marine officers for our peacetime commercial merchant marine. The payments were linked then, as they are now, to a requirement that the recipient apply for and, if offered, accept a reserve commission. The Maritime Education and Training Act of 1980 added a further obligation of employment in the maritime industry. There are substantial difficulties in the enforcement of this employment obligation as our maritime industry has declined. At the same time there is an increasing Federal need to ensure the availability of an adequate supply of well trained merchant marine officers during a national emergency.

The SIP program, to which this obligation is currently linked, is not working. Only a minority of the graduates, all of whom benefit from the major portion of Federal support to their schools, accept an obligation to respond to the needs of the Nation in time of war or national emergency. For instance, 587 SIPs were awarded to the classes of 1986 in their freshman year, but only 151 accepted their obligations at point of graduation. This represents less than 22 percent of the 700 total graduates. In the most recent classes of 1987, 652 SIPs were awarded in the freshman year, but only 200 were obligated on graduation. This is less than 33 percent of the 608 total graduates.

In our view all merchant marine officers produced with Federal support should be committed to the mobilization obligation to sail as merchant marine officers which is provided through the Merchant Marine Reserve, U.S. Naval Reserve or in other reserve mobilization services.

The predominant reserve program to which all Federal support for the academies is now linked is the Merchant Marine Reserve, U.S. Naval Reserve program. This link continues under the Administration proposal. This program was specifically created to ensure the availability in time of national emergency of merchant marine officers with specific training in the operation of their merchant ships in support of the armed services. This program does not have as its primary objective the acquisition of active duty officers in the Navy. During mobilization, merchant marine reservists will sail on merchant ships in their merchant marine officer professions using those skills acquired in the reserve to interface with the Navy. In peacetime, merchant marine reservists are eligible to participate in annual two-week active duty for training which is intended to reinforce the close relationship between the Navy and merchant marine and to keep the reservists up to date in naval operations. Some merchant marine reservists drill on a monthly basis. Although some graduates may elect to join other armed forces reserve components, even in those instances there is a payback to the Federal Government in conditions of mobilization.

Funding is included in the DOD's Naval Reserve budget for the Merchant Marine Reserve, U.S. Naval Reserve ($2.0 million in FY 1989).

The Administration's proposals represent a commitment to continued Federal support for the state academies conditioned on a direct linkage of that support to a more reliable pool of seafarers committed to respond to future mobilization and national emergency requirements. We consider this an affirmation and strengthening of the role of the state academies in our national defense planning, a direction reached after serious reconsideration of the proposals made in FY 1987 and FY 1988 to eliminate Federal support to these schools.

I trust that this letter provides a more complete portrayal of the Administration's proposals.

Sincerely,

JOHN GAUGHAN
Maritime Administrator

US Department
of Transportation

**Maritime
Administration**

Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

May 4, 1988

Honorable Norman F. Lent
Committee on Merchant Marine
and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Lent:

This is in response to your inquiry of April 11, 1988, on the Administration's operating-differential subsidy (ODS) reform proposal, H.R. 3537.

As noted in your letter, section 1411 of H.R. 3537 would allow a U.S.-flag operator to reflag vessels covered under its ODS contract if the Government cancels the contract "without just cause." Under section 1411 failure of Congress to appropriate funds would be considered "just cause," thereby preventing the operator from reflagging the vessels.

In view of the questions raised by you and others concerning the equity of this provision, we have reviewed the background of this issue and now agree that its imposition would not achieve an equitable result. Accordingly, we propose striking the first two sentences of section 1411(a) of H.R. 3537 and substituting the following sentence: "The Contractor or Holder, upon compliance with the provisions of this section, may as its sole remedy transfer to foreign registry the vessels covered by an Amended ODS Contract or Grant Agreement held by him, in the event that the United States cancels such contract or agreement without just cause, including the failure of Congress to appropriate funds." I believe the proposed modification should resolve this issue.

With respect to your question on section 1403(c)(1)(B)(ii), your interpretation of this provision is correct. ODS for wages would be based on the most economical wage agreement in effect during 1987, including those negotiated under Military Sealift Command (MSC) contracts. We believe the use of MSC contracts as part of our consideration is fair because these contracts were negotiated with and agreed to by the affected maritime unions. We see no reason why the concessions made to MSC should not be made to subsidized operators. However, I am prepared to listen to any reasonable alternative that would achieve the same level of cost efficiency proposed in the Administration's bill.

As you requested, I have enclosed a table comparing the 1987 wage costs for similar vessels operated by a subsidized and an unsubsidized operator and under MSC contract. These figures have not appreciably changed in 1988. We are not aware of any comparable foreign wage packages, i.e., foreign vessels contracted by the military under wage agreements that differ from those of foreign-flag vessels in commercial operation. Our best judgment is that foreign manning and wage packages would in all likelihood be the same under any mode of operation.

If I can be of any further assistance to you, please let me know.

Sincerely,

JOHN GAUGHAN
Maritime Administrator

Enclosure

COMPARATIVE DAILY WAGE COSTS FOR SIMILAR SIZED VESSELS

	SUBSIDIZED	UNSUBSIDIZED	CONTRACTED BY MSC
BASE WAGES	$2,475	$1,922	$2,151
VACATION	1,924	2,124	1,187
PENSION AND WELFARE	1,016	673	1,149
OTHER FIXED WAGE COSTS	517	356	178
OVERTIME	2,400	1,424	1,206
OTHER VARIABLE WAGE COSTS	727	1,085	645
	$9,059	$7,584	$6,516

(Source: Maritime Administration, May 4, 1988)

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April 11, 1988

The Honorable John Gaughan
Administrator
Maritime Administration
Department of Transportation
Washington, D.C. 20590

Dear Mr. Administrator:

Thank you for your recent appearance at our Subcommittee hearing concerning legislation to revise and improve the operating-differential subsidy (ODS) program. I greatly appreciate your efforts in promoting within the Administration a more positive approach to legislative initiatives to encourage the growth and development of our American merchant marine.

I have two issues that I did not have time to discuss with you at the hearing and I would appreciate it if you could respond for our Subcommittee record.

One of the provisions of the Administration's ODS bill would subject the new contracts to annual appropriations. I have your response to my initial question during the hearing on that issue and I have a followup question with regard to the text and intent of the Administration's legislation. Section 1411 of H.R. 3537 would allow a U.S. operator to reflag his vessels if the new ODS contracts are cancelled by the Government "without just cause". The section further states that failure of Congress to appropriate funds would be considered "just cause" and, therefore, under a literal reading of the bill the vessel operators would not be allowed to reflag their vessels under that situation. This does not seem fair to me and I was wondering if that was, indeed, the intent of this provision of the bill.

On another issue, I understand that the amount of ODS money to be paid to a vessel operator under the Administration's proposal (Section 1403(c)(1)(B)(ii)) would be based on the lowest wage agreements in effect during 1987 -- including Military Sealift Command wage contracts. Is it fair and economically reasonable to use the lower cost MSC contracts as the basis for the new ODS contracts? Do you have comparative cost figures showing the various wage packages for 1987 for subsidized, unsubsidized, and Government vessels? Do we know what the comparable foreign-flag vessel wage packages are for the same time period?

I would appreciate it if you could send me a response on these points so that we could include this information in our hearing record at the appropriate place.

Thank you again for your participation and assistance at our hearing.

Sincerely,

Norman Lent

NORMAN F. LENT
Ranking Minority Member
Subcommittee on Merchant Marine

NFL:krb

U.S. Department
of Transportation
**Maritime
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

March 18, 1988

Ms. Filomena Magavero, Librarian
Stephen B. Luce Library
State University of New York
Maritime College
Fort Schuyler, New York 10465

Dear Ms. Magavero:

This is in response to your request, under the Freedom of Information Act, for a copy of a report on the subject of ship-sharing by the state maritime schools, which you state was prepared within the Maritime Administration "in 1976" or "in the late seventies."

We have searched our files and have been unable to find a report on this subject prepared in that time period. We do have a number of internal documents dating from 1981, however these documents are exempt from disclosure since they are internal documents that are advisory, express opinions on governmental policy matters, and are part of a pre-decisional deliberative process. Accordingly, pursuant to the provisions of the Freedom of Information Act 5 USC 552(b)(5) these documents are exempt from disclosure. Knowledge that such information would be disclosed would inhibit the free flow of information to the decision maker.

You may contest this decision by submitting an appeal in writing, within 60 days hereof, to the Maritime Administrator, Maritime Administration, Room 7206, 400 Seventh Street, S.W., Washington, D.C. 20590. Your appeal and its envelope should be marked "Freedom of Information Act Appeal."

Sincerely,

JAMES E. SAARI
Freedom of Information Officer

STATEMENT OF
THE HONORABLE EDWARD J. PHILBIN
ACTING CHAIRMAN
FEDERAL MARITIME COMMISSION
BEFORE THE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
SUBCOMMITTEE ON MERCHANT MARINE
UNITED STATES HOUSE OF REPRESENTATIVES

March 23, 1988

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you to present the Federal Maritime Commission's budget request for fiscal year 1989. As you know, this is my first appearance before the Subcommittee as Acting Chairman.

With me today are Vice Chairman James J. Carey, and Robert D. Bourgoin, the Commission's General Counsel.

The budget request I am presenting today totals $15,150,000 and provides for 224 workyears of employment. This increase of $1,565,000 and eight workyears above our fiscal year 1988 appropriation includes: (1) $282,000 for eight additional workyears to enhance our enforcement efforts; (2) $20,000 for additional travel expenses; (3) $1,000,000 for the implementation and operation of an automated tariff filing system (ATFI); and (4) $263,000 for equipment, administrative expenses related to the section 18(a) study, and certain other administrative expenses. Our FY 1989 request represents a real increase of $415,000 or 3.05% over our $13,585,000 appropriation for FY 1988, if the additional funding for the tariff program and additional positions are excluded.

During the past year, the Commission placed a greater emphasis on aggressive enforcement. This realignment of priorities by the late Chairman Hickey was dictated by the enactment of the Shipping Act of 1984 which deemphasized the pre-implementation processing responsibilities of the agency, and accentuated the Commission's monitoring and enforcement responsibilities. The Commission's resources have been redirected accordingly to lend greater vigor and support to its enforcement programs.

Simultaneously, the Commission has increased its efforts to combat foreign practices that unreasonably create unfavorable conditions in our foreign trades, pursuant to the Commission's authority under section 19 of the Merchant Marine Act, 1920. According to law, these efforts aim to ensure that all participants in the U.S. foreign commerce are treated equally. The Commission also made substantial progress during fiscal year 1987 in on-going long-range projects, such as its automated tariff filing program, and its data collection efforts pursuant to section 18(a) of the 1984 Act.

Among the Commission's accomplishments in fiscal year 1987 (which will be continued as major initiatives in the proposed budget for fiscal year 1989) is the Commission's stepped-up enforcement program. This program has been bolstered by an increased emphasis on organized intelligence gathering and in-depth investigative techniques by the Bureau of Investigations. All of our investigators have now attended or soon will attend the White Collar Crime Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. The Commission's effectiveness in its enforcement activities has been further enhanced by stronger headquarters direction of the Commission's various district offices, and the establishment of a new district office in Houston, Texas.

The prosecutorial arm of the Commission's enforcement team, the Bureau of Hearing Counsel, has been given a leadership role in enforcement matters, which it exercises in an aggressive and innovative fashion, in close cooperation with the Bureau of Investigations and other staff elements.

As a result of these enforcement efforts, we have had some notable success in dealing with serious trade malpractices. The most significant accomplishment was the Trans-Atlantic Trade Initiative, which resulted in a series of disclosures of certain trade malpractices, payment to the Commission of $2,000,000, and the establishment of a unique self-policing program for the group of carriers involved. The objectives of this initiative were to achieve compliance with the shipping acts and to bring about stability in the Trans-Atlantic Trades.

In addition to the payment received as a result of the Trans-Atlantic Initiative, the Commission also collected $1,029,000 in civil penalties during the fiscal year for a total of $3,029,000 during FY 1987, or approximately 25% of its FY 1987 appropriation, a significant increase over the amount collected in the previous fiscal year.

In order to increase the Commission's overall monitoring and surveillance effectiveness and to continue to aggressively pursue violators of the shipping statutes, the Commission is requesting eight additional workyears related to the enforcement effort.

Fiscal year 1987 was the most active in the history of the Commission in identifying and correcting unfavorable conditions in the U.S.-foreign trades. The Commission issued orders to carriers in the U.S. trades with Japan, Korea, Taiwan and the People's Republic of China, soliciting information about the carriers' operations within those countries in an effort to identify foreign government trade restrictions that impact adversely on those operations. That information is in the process of being reviewed to determine whether action under section 19 of the Merchant Marine Act, 1920 is necessary in any of those trades.

In the case of Taiwan, the information received led the Commission to determine that conditions unfavorable to shipping appeared to exist in the trade with respect to the ownership and operation of dockside equipment and the operation of container terminals at Taiwan ports by U.S.-flag carriers. The Commission issued a proposed rule under section 19 to adjust or meet the apparent unfavorable conditions. Prior to the expiration of the period for comment on the proposed rule, the Commission received a petition from Taiwan authorities representing that the dockside equipment and container terminal issues had been substantially resolved and asking the Commission to discontinue the proceeding. The affected U.S.-flag carriers also filed comments indicating that these two issues had been satisfactorily addressed. Based on the representations by all affected parties of a successful resolution of these issues, the Commission discontinued the proceeding on March 2, 1988.

In addition, foreign government trade barriers in Colombia and Peru were the subject of formal Commission proceedings initiated under section 19. The Colombia proceeding was discontinued when the Government of Colombia agreed to provide the complaining carrier access to cargo in the trade. In the Peru matter, the Commission issued a proposed rule followed by a final rule which would have suspended the tariffs of Peruvian-flag carriers in response to a Peruvian decree reserving 100% of import and export cargo for Peruvian carriers. Subsequently, the Government of Peru rescinded this decree. Currently, the Commission is reconsidering the final rule for purposes of determining whether the unfavorable conditions previously found will continue to exist under the current regime. The Commission is closely monitoring diplomatic efforts to resolve this controversy. These proceedings typify most section 19 actions, which, though frequently including a proposal of serious sanctions to combat the particular restrictive practices, have historically been terminated upon the foreign government's discontinuance of the offending practices.

The single largest increase in our 1989 budget is for implementation and operation of an Automated Tariff Filing and Information system. During fiscal year 1987, approximately 746,800 tariff pages were filed at the Commission in hard-copy paper format. The ATFI system would not only substantially facilitate the filing and retrieval of tariffs by the shipping public but would also greatly enhance the Commission's surveillance, enforcement, and trade monitoring efforts by providing reliable, accurate, and readily-accessible tariff information. Moreover, ATFI would enable the Commission to more effectively collect and analyze information on increases and decreases in rate levels.

In fiscal year 1988, the Commission's Industry Advisory Committee agreed with our private-sector contractor that the ATFI system was both economically and technically feasible. We then obtained private-sector contractors through GSA and the Federal Home Loan Bank Board to develop a benefit-cost analysis and a functional request for proposals (RFP). The benefit-cost analysis was submitted to OMB in October, 1987, and remains "procurement sensitive" until the contract is awarded.

On March 12, 1988, the draft RFP was sent to over 115 people on our "bidders list" for questions and comments which will be discussed and resolved at a presolicitation conference before the RFP is issued in final form.

After proposals are submitted and evaluated, a revised and more specific benefit-cost analysis will be completed and the Commission can award a contract in the late summer or early fall of 1988 for the design and development of the ATFI system. It is scheduled to be operated for six months as a prototype or pilot, with volunteer firms from the industry.

The ATFI system should be in full operation in 1989.

During FY 1987, the Commission's Bureau of Economic Analysis continued its preparation of the five-year study mandated by section 18 of the 1984 Act. Trade data is being collected through surveys and other methods, and procedures for analysis of the data are being developed and refined. These efforts, along with the preparation of the report required by section 18, will be a major Commission focus in fiscal year 1989. The Commission staff is continuing to consult regularly with other federal agencies and with various industry groups to ensure the accuracy and appropriateness of our efforts.

We respectfully request an authorization consistent with our budget request so that we may achieve our objectives in fiscal year 1989. We ask for your support of our efforts to carry out our important statutory responsibilities.

RESPONSES TO QUESTIONS SUBMITTED BY THE HONORABLE WALTER B. JONES TO THE FEDERAL MARITIME COMMISSION ON H.R. 4200, FISCAL YEAR 1989 MARAD/FMC AUTHORIZATION (MARCH 23, 1988 HEARING)

1. Please comment on what you feel the likely outcome of the section 19 action regarding Peru will be.

The Commission is currently analyzing comments received in response to its Notice of Reconsideration of its Final Rule in Docket 87-6, the section 19 proceeding initiated to investigate the situation in Peru. The Final Rule, issued on December 7, 1987, is being reconsidered because the Government of Peru rescinded the 1986 cargo reservation decree to which the Final Rule was primarily directed. The situation which existed prior to the 1986 decree has now been reestablished. In addition, commercial agreements between Peruvian and Chilean-flag carriers have recently been filed with the Commission. These agreements would grant the Chilean-flag carriers, the major third-flag carriers in the U.S./Peru trade prior to enactment of the 1986 cargo reservation decree, "associate status," meaning that they would have access to 100 percent of the cargo in this trade.

Due to the fact that these developments are relatively recent and their impact is still unknown, it is premature to comment on the likely outcome of this case. The Commission will be meeting on this issue in the near future.

2. It seems the enforcement tool you have for section 19 actions -- suspension of tariffs -- is such a heavy penalty that it is rarely, if ever, used. Are there other penalties that might be more productive.

Whether the tariff suspension remedy is "used," in the sense of actually being implemented, may not be the truest measure of its effectiveness as a section 19 sanction. In case after case, the mere threat of tariff suspension has been sufficient to cause the lifting of burdensome requirements and to open U.S. foreign trades, without the disruption that actual tariff suspension might bring about. Thus, the threat of tariff suspension has been a most effective tool in removing unfavorable shipping conditions. In any event, the Commission has additional sanctions which it can apply in section 19 proceedings. For example, in Guatemala, the Commission imposed an equalization fee designed to eliminate the discriminatory diversion of cargo caused by Guatemalan laws. The Commission is also empowered to limit sailings to and from United States ports, to restrict the amount or type of cargo and to take any other appropriate action to remove unfavorable shipping conditions. Which remedy is most appropriate and effective will depend upon the particular facts of an individual case.

3. In pursuing action under section 19, does it constitute an "expertise problem" for the FMC because the conduct complained of could involve bulk vessel operations?

The Commission has the expert knowledge and skill to pursue action under section 19 with regard to bulk vessel operations. For example, in Docket No. 87-11, the Commission recently issued a proposed rule under section 19 in response to a petition filed by O.N.E. Shipping, Ltd. which alleged that Colombian laws reserved certain cargoes to Colombian-flag carriers in the U.S./Colombia liquid bulk, parcel tanker trade. The issuance of the proposed rule led to commitments by the Government of Colombia which provided access to the trade to O.N.E. As a result, O.N.E. withdrew its petition. Based on the successful resolution of this problem, the Commission discontinued the proceeding.

The kinds of trade restrictions that could constitute unfavorable conditions in bulk trades (e.g., cargo reservation, discriminatory practices, or unequal burdens on doing business) are similar to the conditions that would face liner operations. Thus, the Commission's section 19 experience in liner trades is applicable to problems in bulk trades.

The more difficult problem in bulk trades is that one of the section 19 remedies, namely suspension of tariffs, may not be available. In the O.N.E. case, tariff suspension was proposed because the Colombian-flag carrier operated in both liner and bulk trades. In a case where no liner service were involved, other section 19 remedies would have to be pursued.

4. I understand the FMC is looking carefully at the Sea-Land/Trans Freight Lines/Nedlloyd charter arrangement. What are some of the implications of this case, and what do you feel the likely outcome will be?

FMC Agreement No. 203-011171 among Sea-Land Service, Inc. ("Sea-Land"), Trans Freight Lines ("TFL") and Nedlloyd Lijnen, B.V. ("Nedlloyd") stems from the acquisition by Sea-Land of twelve large containerships formerly operated by United States Lines. The vessels will be deployed in the North Europe-U.S. and Mediterranean-U.S. trades. The Agreement provides that, among other things, Sea-Land will time-charter one vessel each to its two partners. Although TFL and Nedlloyd are foreign-flag operators, the vessels at all times will remain U.S.-flagged and U.S.-crewed. The three carriers also will cross-charter space among themselves, and agree on vessel itineraries, stowage plans, service frequency, port calls and related matters. They further have agreed to remove all other vessels previously operated by them in these trades and not to add additional commercial capacity except by mutual agreement. The net result is that the total capacity in the trades of the three lines should not be increased significantly by the deployment of Sea-Land's twelve vessels. Aside from the cooperative use and management of their vessel capacities, the parties will remain fully autonomous competitors.

Although the Agreement was protested by Farrell Lines and the Military Sealift Command, the Commission believes that, with one possible exception, the Agreement is consistent with the intent of the Shipping Act of 1984 ("1984 Act") and should enable the parties to provide the shipping public with a high level of reliable service on U.S.-flag vessels, while avoiding the destabilizing effects of overtonnaging. Accordingly, after certain corrective amendments were made by the parties, the Commission took no action to prevent the Agreement from taking effect as originally scheduled on March 28, 1988.

The possible exception relates to Article 5(i) of the Agreement. By chartering space on U.S.-flag vessels, TFL and Nedlloyd ordinarily would have gained eligibility to compete for U.S. military and other government preference cargoes reserved to U.S.-flag vessels. However, in Article 5(i), TFL and Nedlloyd have agreed that they will not use any vessels or space chartered from Sea-Land for carriage of such cargo, thus removing themselves as potential competitors.

The consequences of Article 5(i) for the Military Sealift Command and other shippers of government preference cargoes raise issues under the 1984 Act, in particular sections 10(b)(12) and 10(c)(6).[1] Although the Commission permitted the entire Agreement -- including Article 5(i) -- to go into effect, the parties were informed that the agency is still considering whether an investigation into the lawfulness of Article 5(i) is appropriate.

On March 23, 1988, counsel for Sea-Land transmitted a letter issued the same day by the Maritime Administration.

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[1] Section 10(b)(12) forbids unreasonable refusals to deal and unreasonable disadvantages against any particular person or description of traffic. 46 U.S.C. app. § 1709 (b)(12). Section 10(c)(6) states that no group of two or more common carriers may "allocate shippers among specific carriers that are parties to the agreement . . ., except as otherwise required by the law of the United States . . . ." Id. § 1709(c)(6).

The letter gave Sea-Land permission, for which it was required to apply by section 9 of the Shipping Act, 1916 ("1916 Act"), to charter vessels and space to Nedlloyd and TFL. The Maritime Administration's approval, however, was dependent upon several conditions. One of these conditions in effect repeated Article 5(i): it requires that none of the space chartered to Nedlloyd or TFL "shall be utilized for the carriage of cargo reserved for United States-flag vessels . . . unless such cargo is carried pursuant to bills of lading or contracts of carriage issued [by], or entered into with, . . . a citizen of the United States . . .," i.e., Sea-Land.

However, the Maritime Administration's March 23 letter to Sea-Land was somewhat unclear in its wording and was susceptible to an interpretation that the relevant condition was meant merely to acknowledge the existing voluntary agreement among Sea-Land, Nedlloyd and TFL, rather than independently to prescribe an obligation in furtherance of a specific statutory purpose.

Accordingly, on March 31, 1988, the Commission wrote to the Maritime Administration, inquiring whether that agency in fact had concluded that Nedlloyd and TFL should be barred from carriage of restricted preference cargoes in order to further the policies of the statutes that the Maritime Administration is responsible for executing. The Commission also requested the Maritime Administration to advise us whether it had made any findings regarding the possible economic impact on Sea-Land if TFL and Nedlloyd were free to compete for preference cargo.

By letter dated April 12, 1988, the Maritime Administration responded to the Commission's inquiry. This response was received at the FMC on April 18, 1988. A copy of that response is attached. The Maritime Administration's response will be considered in connection with the Commission's review of the status of Agreement No 203-011171 in the near future.

5. The FMC's Automated Tariff Filing and Information (ATFI) system proposes a revolution in the way tariffs are filed and published. Currently, most of the shipping industry publishes tariffs in page format, electronically stores that page, and files it with the FMC on paper. Primarily as a result of marketing concerns, there has been no standardization of many of the tariff elements. The ATFI proposal seeks to do away with the page concept and create a standard data base submission for all filers. The job of creating this standardization is to be left to the proposed FMC contractor.

(a) Does the FMC have the legal authority to mandate this change?

Section 8(f) of the Shipping Act of 1984, 46 U.S.C. 1707(f) (Supp. III, 1985), authorizes the Commission to prescribe the form and manner in which tariffs must be published and filed. Congress intended that the Commission have broad discretion in this area of authority. H.R. Rep. No 53, 98th Cong., 1st Sess., Part 1, at 34-34 (1983). The Commission has designed a standardized automated tariff format in cooperation with a GSA ADP contractor and in accordance with standards developed by the Transportation Data Coordinating Committee (TDCC). The Commission will formally adopt final standards in a public, notice and comment rulemaking proceeding and will delegate only the ministerial function of implementing the design to the ATFI Contractor. See Tabor v. Joint Bd. for Enrollment of Actuaries, 566 F.2d 705, 708 n. 5 (D.C. Cir. 1977).

(b) What alternatives were considered, and why were they rejected?

At the first meeting of the Commission's ATFI Industry Advisory Committee in January, 1986, the Committee identified additional issues to be addressed in the Feasibility Study being developed by a private-sector contractor for the Commission. One issue raised and discussed was described as follows:

> "Reexamine the way that tariffs are filed with a view toward requiring all transportation prices to be set forth in a simpler method for the benefit of the user, vis-a-vis, keeping tariffs the way they are now structured by the carrier or conference and merely providing for an electronic method of receiving and maintaining them." [Summary of Minutes, p. 14.]

At the second Advisory Committee meeting in June, 1986, several carrier representatives agreed that the Commission should get away from "this page business." Summary of Minutes, p. 29.

In a "Preliminary Assessment of the Feasibility of Tariff Automation," June 27, 1986, the Feasibility Study Contractor identified three basic, alternative types of a tariff automation system which were suggested by the Advisory Committee to be considered by the Commission. These were 1. the "electronic filing cabinet"; 2. the standard data base system; and 3. the standard data base system with commodity and geographic codes. On page 7, the Study Contractor noted that "A data base format will make it easier for third-party vendors to offer sophisticated services (i.e., compared to the page-image format)." Other advantages of the data base system over the "Electronic Filing Cabinet" included better, computer-assisted conformity and edit checking, as well as retrieval of individual tariff items rather than entire pages containing multiple rates. Finally, the Study Contractor estimated that a data base system would be significantly cheaper than an "Electronic Filing Cabinet." See Appendix A to the Preliminary Assessment.

For the above reasons, the Commission decided not to pursue a page-image system, including current optical disk technology and computer-based microfilm systems. For internal tariff-analysis purposes, this would require the Commission staff each year to review over 700,000 images on a screen, which is no better than reviewing over 700,000 pages in paper format. A data base approach would allow elements to be electronically "tagged" for more efficient retrieval and review.

In the "Comprehensive Study of the Feasibility of an Automated Tariff System," October 18, 1986, the Study Contractor presented a detailed analysis of a data base system for consideration by the Commission and the Advisory Committee, which indicated that the Commission should proceed with the project. Rigid commodity or geographic codes were not recommended for start-up operation but the Advisory Committee indicated that this should be explored later on. Also, several members of the Committee suggested that the Commission consider certain models and/or alternative approaches.

The functional specifications for the ATFI system are contained in the Commission's draft Request for Proposals. Additionally, during all phases of development and operation, the Commission will work with the Contractor to refine the data base features to accommodate the shipping and information industries.

For further discussion of the functionality of the ATFI system, please consult the Commission's "Report on Tariff Information Inquiry," served April 15, 1988, a copy of which is attached for your convenience.

(c) Did you consider a transition period?

The Commission has considered transition periods for phasing out paper tariffs. Much of the necessary technology and transition strategy will be developed during the planned prototype operation. Additionally, the "Report on Tariff Information Inquiry" states:

> "The Commission is pleased that carriers and conferences are volunteering to participate in the prototype phase where many of the system's working details will be resolved.

> "As mentioned in the Notice, implementation will be in phases, depending on the difficulties encountered. Exemptions will be addressed on both an individual and category basis.
>
> "At the same time, however, it is desirable to have as much of the industry's tariffs in the electronic system as soon as possible. The Commission encourages filers not having ADP capability to utilize commercial firms for that purpose. Then, as now, the Commission will provide the names of all tariff services to each filer with a specialized problem.
>
> "The electronic system will naturally require electronic equipment which will be relatively inexpensive, e.g., an off-the-shelf microcomputer, modem and printer. Training, developed by the Contractor in accordance with Commission specifications, will be available to assist firms on equipment and procedural questions." [Page 39.]

The transition strategy, including exemptions, would be implemented through public rulemaking, after notice and comment.

6. There are filing programs currently available from the private sector, under the terms of OMB Circular A-130. Why did you reject those systems?

The Commission assumes that the filing programs available from the private sector to which you refer are those provided by third-party vendors or tariff services. Like the carriers and conferences which file their own tariffs, third-party vendors employed by carriers and conferences must now file paper tariffs at the Commission. The paper problem is what the Commission is trying to resolve through an automated tariff system.

A further explanation of this area is contained in the "Report on Tariff Information Inquiry," as follows:

"(a) Tariffs and Statutory Responsibilities

> " The Commission administers, inter alia, the Shipping Act, 1916, and the Shipping Act of 1984, which apply to domestic offshore commerce (e.g., between the mainland and Hawaii or Puerto Rico), and to foreign commerce, respectively, for both inbound and outbound waterborne transportation. The statutes require that common carriers by water in these trades file and keep open to public inspection their 'tariffs.' Additionally, the Shipping Act of 1984 requires that service contracts be filed and that their essential

terms be made available to the public in tariff format. See 46 U.S.C. app. §§ 817, 844 and 1707.

- A 'tariff' is a list of rates, charges and rules applicable to the transportation of cargo. A service contract is a special agreement between shipper(s) and carrier(s) governing transportation of a certain minimum quantity of the shipper's cargo over a period of time in consideration for a commitment by the carrier of a certain rate and service level. When a service contract is filed, the filer is also required to submit a Statement of Essential Terms, which contains the rates, charges and rules for a specific service contract.

- The statutes and implementing regulations require the Commission to ensure that certain essentials are complied with before tariff material is accepted for filing. For example, a tariff, or amendment thereto, must not be unclear or indefinite and must not duplicate or conflict with other tariff provisions already in effect. Moreover, tariffs must contain effective-date provisions in compliance with the statutes, e.g., a minimum of 30 days for a rate increase. If a tariff filing is defective in any of these respects, it is rejected and must be refiled in the proper form and manner before the tariff is considered officially filed. See 46 CFR Parts 515, 550, 580 and 581.

- Once the tariff is officially filed and the rate becomes effective, it determines the exact amount of freight to be paid by the shipper and collected by the carrier under the bill of lading or other type of transportation contract.

- In addition to being a schedule of rates, the tariff of a carrier or conference is used as a marketing brochure, and a copy of a tariff on file with the Commission is made available by the filer to anyone at a reasonable charge. 46 CFR 550.3 and 580.3. This is often done by subscription.

- Tariffs are used by shippers to shop for the best rate and service. They also are used extensively by carriers and conferences to see what their competition is doing.

- Some of the practical consequences of a tariff-filing requirement are:

- o The tariff provision must be in writing (or, in the case of ATFI, the electronic equivalent) and not a verbal quote.

Moreover, there can be only one 'writing' used for a particular period of time.

" This prevents one shipper from being charged a rate different from that 'quoted.' It also prevents one shipper being charged a rate different from that charged to another shipper for the same cargo at the same time.

" o Tariffs are filed and maintained in a central place.

" This permits the interested person to access any tariff from one location, without having to obtain copies from every carrier in a relevant trade. The third-party vendors assist in this function by using tariff data filed at the Commission.

" o If there is a dispute over a tariff provision, the official evidence needed to resolve the dispute is retrieved from the central repository.

" With the tariffs filed with and maintained by the Government, there can be no argument that a tariff page, maintained by a commercial firm in the normal course of business, was not the same tariff page used in booking the shipment. The shipment in question could have occurred over three years before final adjudication of the dispute. During fiscal year 1987, FMC cases involving problems between shipper and carrier and which required evidentiary tariff materials from the FMC's official files, included 125 Special Dockets and 42 Informal Dockets.

" In order to prevent discrimination among shippers and unfair competition among carriers, there are substantial penalties for not filing, or if properly filed, for not adhering to the provisions of a tariff or service contract. See, e.g., 46 U.S.C. app. §§ 812, 815, 818, 1708 and 1709.

" In addition to enforcing these penalties, the Commission uses the filed tariff data for surveillance and other regulatory purposes and, in its proceedings, adjudicates tariff issues raised by private parties. For Commission proceedings, as well as in any court case throughout the country, the tariff provision, on file at the FMC and in effect, is official evidence of the applicable tariff rate, charge or rule, when so 'certified' by the Commission.

" Accordingly, as relevant to ATFI and as set forth in the Notice, the Commission has the responsibility under the shipping statutes to:

> " 1. Accept the filing of common carrier tariffs and service contracts containing rates and charges governing transportation of cargo in U.S. waterborne domestic offshore and foreign commerce. (Marine terminal operators also file tariffs of their rates and charges.)
>
> " 2. Ensure that tariffs and service contract data comply with basic statutory requirements before they are accepted for filing.
>
> " 3. Maintain the official file of tariffs and service contracts and certify authentic and accurate tariff data to courts and other tribunals.
>
> " 4. Ensure that tariffs and the essential terms of service contracts are available for public inspection.
>
> " In addition to its basic duties under the shipping statutes, the Commission is required to comply with the terms and policies of other statutes and regulations, such as the Freedom of Information Act. 5 U.S.C. 552. Therefore, because filed tariffs are public records, the Commission is under a legal obligation to make these records promptly available to any person. Making these records 'available' includes making copies upon written request at reasonable fees. _See_ 46 CFR §§ 503.31, 503.32(c), and 503.41 - 503.43. This type of activity is a routine matter when a member of the public requests tariff materials from the Commission's public reference room. Also, tariffs are required to be filed at the FMC in duplicate or triplicate (_see_ 46 CFR §§ 515.3, 550.3(g), and 580.3(f)), and as an accommodation, the Commission provides one copy of all tariff materials to be shared by commercial tariff services." [Pages. 22-25.]

The Commission, therefore, will continue to encourage third-party vendors to file tariffs at the Commission for carrier and conference clients; it cannot, however, legally franchise any such commercial firm to become an official repository of tariffs required to be filed under the shipping statutes.

The Commission has been previously requested to consider utilizing certain private-sector firms. _See_ the Summary of Minutes of the third Advisory Committee Meeting, November 19, 1986, attached as Exhibit "B". Under the Competition in Contracting Act, however, the Commission has been and will continue to be prevented from contractually obtaining filing or retrieval services from a private sector firm, unless it is through a competitive procurement which the Commission is planning. To the extent such services meet the Commission's needs and the Government's criteria under OMB Circular A-130, it is highly probable that they will be offered by interested firms to the Commission in response to the Request for Proposals where they will be properly considered in the procurement evaluation process.

Because the Commission does not now have an automated system, tariffs must be filed in paper format. The proposed electronic system, however, should facilitate filing by all users and improve accuracy, as further discussed in the "Report on Tariff Information Inquiry," as follows:

"(e) Filing - Edit Checks

> " As mentioned in the comments, the Notice is not clear about 'batch filing.' This was unintentional and this feature will be included in the new system. 'Interactive filing' will also be provided for. Both types of filing will be by modem directly from the filer to the system, for which ten modem ports are specified in the draft RFP. The filer can be a carrier or conference, or a tariff service acting as tariff-filing agent for the carrier or conference.
>
> " Batch filing will be ideal for the user with frequent and voluminous tariff changes. The software provided will allow the filer to process its tariff material before transmitting it to the ATFI system.
>
> " With interactive filing, special software is not needed. The filer needs only a terminal and modem with which to access its own tariff on the ATFI system for occasional changes. This type of filing is also intended for the small operator who might be inexperienced in computer operations or tariff regulations. The interactive prompts will lead the filer's computer operator through all the necessary steps.
>
> " Automatic edit checks will be applied to both types of filing. During interactive filing, for example, a rate increase on less than 30-days notice would not be accepted and the filer could change the date on-screen. For batch filing, such an edit check would be built into the software that is made available by the Commission to the filer, and the 30-day-effective-date problem would be resolved before transmission of the tariff begins.

" Other types of 'edit checks' will continue to be made by tariff analysts to check such things as ambiguities and conflicts with other tariff items.

" Edit checks are not solely for the internal benefit of the Commission. If shippers and carriers did not use rates in their daily business activities, it might be feasible to allow the tariff filer to assume the risk of being assessed the statutory civil penalty for tariff form and content violations. To enforce its regulations, the Commission could theoretically rely upon reports of violations long after they occurred.

" The fact is, however, that both carriers and shippers need accurate rate information as soon as possible in order to effectively do business. The current paper system invites tariff discrepancies that cause confusion in the industry and often result in cases that have to be adjudicated.

" In fiscal year 1987, there were about 9,000 rejections of tariff materials filed. Although approximately 750,000 pages were filed during the fiscal year, a few entire tariffs were rejected. Commercial firms filing on behalf of carrier clients also have some rejections, even in cases where they receive the tariff electronically and convert it into paper for filing at the Commission.

" Many rejections are due to date discrepancies, such as a retroactive effective date, or an increase on less than 30-days notice. While some of these rejections may have been due to administrative error, many of these mistakes are due to delay in filing caused by the current paper system.

" Because rate reductions may be effective upon filing, the carrier will usually use these rates immediately. Frequently, the rate is filed to accommodate the urgent needs of a particular shipper. When the tariff page is filed, the filer will often submit an extra copy of the page to be stamped with a receipt date to provide the carrier with evidence of filing and when it can use the rate. Moreover, an extra copy is made available to commercial tariff services.

" Then, perhaps the same day, a rate might be rejected because it does not comply with statutory requirements and the filer is immediately notified. In the meantime, the same page, revised again to show a different decreased rate, has been filed. This may, in turn, result in other reasons for rejection of this

> page as well, all because of the original mistake. Such derivative causes for rejection include 'carrying forward rejected material' and improper revised-page numbers.
>
> " ATFI's edit checks will reduce original errors and, because the item, not the page, will be amended, will almost entirely eliminate 'derivative' errors. The data-element approach is indispensable for the electronic edit checks and will substantially facilitate the search by tariff specialists for other rejectable materials." [Pages 40-42.]

Current commercial systems do not electronically file tariffs at the Commission, nor do they have the desired edit-check capability. This, of course, is because there is no present need for these features and the reason why the Commission cannot use existing systems.

The Commission, therefore, has not "rejected" private-sector filing systems. To the extent that any existing firm has or will develop capabilities that meet the Commission's needs, we assume that these will be reflected in the offers in response to the Request for Proposals, after which the Commission can contract for the services of a private sector system. This should be only after free and open competition.

The need for competition is particularly pressing in the circumstances of ATFI. None of the existing services presently fulfill all of the Commission's needs for tariff automation. This is not to say that an existing system could not be modified or somehow changed to meet the Commission's needs, -- but any such commercial system would have to be adapted to ATFI. This is readily understandable since these systems have been built largely around the existing methods of creating tariff information on paper, rather than handling the data electronically.

Since any potential ATFI Contractor would have to go through essentially the same process of reviewing the Commission's requirements and proposing an acceptable system, it has been and continues to be the Commission's position that the entire contractor community should be given a fair opportunity to compete for the Commission's business; not just those firms which have existing systems which would require modification in any event.

See also the answer to question 7.

7. There are many private sector companies that are offering or will offer retrieval services for tariff information. The FMC is unnecessarily duplicating these

services by providing on-line dial-up dissemination products to the public. What are the costs of these services, and what will the charge to the public be? Why should the taxpayer pay for these retrieval services? Have you considered the cost of customer support?

The plans for ATFI do not include the dissemination of any products by the Commission. The retrieval features, however, do allow access to public information, as further described in the "Report on Tariff Information Inquiry:"

"(d) Dissemination and Access to Information

> " The proposed ATFI function which most closely resembles 'dissemination' is the availability upon request of the unprocessed, full data base tapes to potentially numerous members of the public. This feature was originally intended primarily for third party vendors but, because the raw tariff data contained in the data base is public, the Commission must also make these tapes available to all persons on equal terms and conditions.
>
> " Rather than dissemination, however, all electronic retrieval features of the proposed system provide public access to government information, consistent with the Freedom of Information Act. A-130, § 8.a.(6).
>
> " Comments in this proceeding which cite A-130 do not make reference to the essential distinction between 'dissemination' and allowing access, nor do they challenge the function of furnishing the data base tapes.
>
> " The term 'dissemination of information' refers to the function of distributing government information to the public, whether through printed documents or electronic or other media. The term does not include responding to requests for 'access to information.' A-130, § 6.g. Appendix IV to A-130 further refines this term:
>
> > " ' "Dissemination," in the Circular's usage, refers to the function of distributing government information; dissemination connotes an active outreach by a government agency. Dissemination refers to those situations in which the government provides the public with information without the public having to come and ask for it.'
>
> " One example of a legally-required dissemination would be where a statute provides that '. . . the President or head of an agency shall make reports to the Congress on given subjects.' Appendix IV to A-130.

"   On the other hand, the term 'access to information' refers to the function of providing to members of the public, upon their request, the government information to which they are entitled under law. A-130. § 6.f. Appendix IV states:

> "   'Access refers to those situations in which the government agency's role is passive; access is what the government's responsibilities are when the public comes to the government and asks for information the government has and the public is entitled to.'

"Appendix IV to A-130 continues:

> "   'The distinction between access and dissemination is posed in order to elaborate the responsibilities of Federal agencies for providing information to the public. Two fundamentally different situations exist: one in which the public goes to the agency to ask for information the agency holds and may or may not have disseminated; and one in which the agency chooses to take the information it holds to the public. In the first instance -- access -- Congress has provided specific statutory policy in the Freedom of Information Act (FOIA) and in the Privacy Act. These laws and policies concerning access to government information are explicit, well known, and now so widely accepted in practice by Federal agencies as not to require policy elaboration in this Circular. Agencies should know that, if members of the public ask for information subject to FOIA or the Privacy Act, the agencies should normally provide the information forthwith, because the public has a formal legal process for forcing the agencies to yield the information.'

"   Appendix IV to A-130 indicates that tariffs are subject to access upon request under provisions of agency statutes or the Freedom of Information Act:

> "   'Similarly, the fact that an agency has created or collected information is not itself a valid reason for creating a program, products, or service to disseminate the information to the public. Agencies create and collect much information, often for purely internal governmental purposes, that

> is not intended for dissemination, for which there is no public demand, and the dissemination of which would serve no public purpose and would not be cost-justified: e.g., compilations of routine time and attendance records for Federal employees, or publication of the thousands of pages of common carrier tariff filings by regulatory agencies. While such information may be subject to access upon request under provisions of agency statute, the Freedom of Information Act, or the Privacy Act, the agency must demonstrate in each case the need actively to disseminate such information.'

" How A-130 can group tariffs with time and attendance records is a mystery. The nature of tariffs, and the entire ATFI project, especially the comments in this proceeding, demonstrate conclusively that the tariff information is not created by the agency for purely internal purposes.

" However, the Commission is not disseminating, but rather making tariff materials available upon request.

" Thus, it is difficult to see how the Commission under A-130 has no legal right to make public information available to the public. If, for some unknown reason, requested information is not disclosed, both the FOIA and the Shipping Acts provide an ample legal basis for lawsuits against the Commission, not commercial firms, to compel access to the information.

" To enable it to better carry out its statutory responsibilities of providing access to public tariff data, the Commission has followed the proposed Notice of Policy Guidance on Electronic Collection of Information, August 7, 1987 (52 FR 29454), which provides:

" '[3.g] Where electronically collected records are subject to disclosure under the Freedom of Information Act or are to be made publicly accessible for any other reason, agencies should provide for such access in the design and development of the collection system.'" [Pages 33-35.]

The Commission believes, therefore, that remote access to raw tariff data is necessary. The "Report on Tariff Information Inquiry" provides:

"(i) Remote Retrieval by Modem

"   Since the electronically collected tariffs are subject to disclosure under the Freedom of Information Act and are to be made publicly accessible under the shipping statutes, the Commission has provided for the required access in the design and development of the system. The terminals in the public reference room electronically provide such access, and the availability of the full data base tapes is an additional means by which the Commission can perform its statutory duties. The major question presented in the Notice is whether the Commission should reconsider providing further access, i.e., through the function which provides remote access to tariffs by modem.

"   The basic question, however, is whether, under the Freedom of Information Act and the shipping statutes, the Commission can decline to make public tariff information available to certain segments of the public. Can the Commission legally allow the public doing business in the Washington, D.C. area to have on-line access, while everyone else has to submit an FOIA request in writing? If the remote retrieval feature would compete with commercial firms, then why not the public reference room?

"   The remote retrieval feature merely extends the public reference room concept by allowing remote electronic access to one tariff at a time by any member of the public, wherever situated. Once a user obtains access to the system, the configuration and security controls are the same, both for the public reference room and for remote retrieval. There is no 'dissemination;' the service is provided only upon request.

"   True value-added services should be and will be left to commercial firms. A real value-added feature is the ability to search for commodity rates across several tariffs or up-to-date tracking of all rates of a particular carrier in a certain trade. It is not intended that ATFI will do such things for the public. Providing access to one tariff at a time, however, as the Commission does now, can hardly be said to be a value-added feature, whether performed in the public reference room or over the phone. Because a commercial firm provides a similar service now or wants to do it in the future does not make this basic, statutory duty any less of a governmental function.

"   Even where, as a general policy, services which the Government should not provide in competition with commercial firms happen to be non-value-added, the Commission cannot completely abdicate this statutory duty under FOIA or the shipping statutes. Absent legislation, commercial firms could not be 'certified' or 'franchised' to perform such a governmental function.

"   Electronically, the remote access feature is relatively basic and inexpensive. The draft RFP calls for 25 ports for this purpose and the user will pay for his or her own call. The difference between providing and not providing the remote retrieval function is basically the size of communications equipment and connect-time and storage charges. The difference in training costs to the Government would be negligible because so little training is required.

"   In the Notice, the Commission indicated that, even if it decided not to provide the remote retrieval feature for the public, filing carriers would still need to access their own tariffs and those of conferences to which they belong. Some comments also challenge these functions.

"   While tariffs 'belong to' the public, once officially filed, they also contain the rates of the filing carrier or conference. The comments suggest that carriers can find out what their own filed rates are without remotely accessing ATFI. True, a filer should know what it filed. Without access to its own tariff, however, it does not immediately know what tariff matter may have been suspended or rejected by the Commission after review by Commission staff. To the extent possible, the ATFI system is designed to resolve such problems before the filed tariff matter goes into the data base. The carrier does not want its competitive tariff information to become public until it is cleared to go into the data base. Thus, only by immediate access to its own tariff data will the carrier know that there is a problem with a particular rate, -- in sufficient time, perhaps, for the rate not to be charged to a shipper.

"   If the Commission decided to not provide the remote retrieval function and to not allow carriers access to their own tariffs, electronic password features can be developed to allow a carrier to batch file by modem, but not be able to access its own tariff. Not so, however, with interactive filing, which requires access to the item desired to be changed by the casual filer. While some comments suggest that interactive filing could be dispensed with, the Commission believes that this feature will be extremely helpful to the small operators, especially NVOCC's.

"   The comments do not mention a very important fact. Conference tariffs are filed by conferences, not the carrier members; yet the carrier member is required by law to charge the conference tariff rate. Even though the carrier may have voted for the rate change at a conference meeting, it would not immediately know when the rate was actually filed or became legally effective, unless it had access to the conference tariff.

" The arguments against allowing carriers remote access to their own or their conference tariffs lead to the same dilemma as the argument against remote retrieval itself. The carrier on the West Coast could not access its tariffs; but the public and competing carriers in the Washington, D.C., public reference room could.

" Commercial firms now provide and will continue to provide services which provide tariff information to the shipping industry and the public. Some of the commenting, shipping-industry firms indicate that such services will satisfy their needs when ATFI becomes operative. Again, the Commission encourages commercial firms to provide tariff services for the carriers, conferences, freight forwarders, terminal operators, and shippers who want them.

" On the other hand, some commenters urge the Commission to retain ATFI's remote retrieval feature. The few commercial shippers, represented in the comments, were all in favor of the Commission retaining the function. The Commission has to be and is most concerned about the shipper who is the real customer of tariffs. If shippers want the remote retrieval function, then the Commission should provide it for them.

It is estimated that the cost to the Government of the remote access feature is less than 3% of the total system (over a five-year period). The Commission has considered "customer support" and plans that the public user will pay reasonable charges for connect time, i.e., analogous to the marginal cost of reproduction under Freedom-of-Information-Act guidelines. Because the raw tariff information is public, then it is the Government's responsibility to make it available to the public.

8. Please describe in detail how the ATFI tapes will be distributed to private sector disseminators to assure the widespread and timely dissemination of this data.

As previously indicated, the "ATFI tapes" contain only raw, unprocessed data. These are copies of tariffs on file at the Commission and must be made available to the public.

They will, therefore, be sold upon request to any member of the public at the marginal cost of reproduction. As stated in the "Report on Tariff Information Inquiry:"

"(f) Availability of Unprocessed Data Base

> " As indicated in the Notice, once rejection problems have been resolved and the tariff is officially on file, a more accurate data base of all tariffs and amendments on file will be made available to third-party vendors and the public. Under FOIA principles, copies of the data may be sold at the marginal cost of reproduction.
>
> " The tariff data, downloaded onto tapes, will be in raw and unprocessed form so as not to compete with value-added vendors that should be able to commercially use this feature. As suggested in the comments, the Commission would consider updating the tapes on a weekly basis." [Page 42.]

It is expected that private sector firms will "add value" to the data by processing it in more usable form for their clients, rather than making "widespread dissemination" of the tapes in their original form.

9. Since the proposed ATFI contractor will have advantages in the retail sale of these services, how does the FMC propose to assure the creation of a level playing field in the filing and dissemination of tariff data? Has the FMC considered prohibiting its contractor from engaging in retail sales? Will the contractor be prohibited from preparing a data base for the dissemination of tariff information outside the contract before the tapes are available to competing companies?

The Commission has attempted to structure the contractual provisions in the pending competitive procurement to assure a level playing field in the filing and dissemination of tariff data. A copy of the Commission's draft Request for Proposals was previously transmitted to you. Included in this document are provisions to:

- Prevent the unfair use of tariff data by affiliates of the contractor which are firms regulated by the Commission. [H.2.] This and other provisions will prevent the Contractor from making available tariff information outside the contract before the tapes are available to competing companies.
- Prevent unfair advertising by the Contractor. [I.3.]

- Prevent Advisory Committee members from bidding on the project [K.24.]

- Encourage all offerors to propose "mechanisms to prevent unfair competition with (other) value-added vendors." [L.1.2.4.]

The basic procedure for the "retail sale" of the raw, unprocessed tariff data is that the Commission, itself, will control the making available to the public of all tapes (as well as retrieval of data through the public reference room and remote-retrieval modems). The Contractor will act under the close supervision of the Commission. The public will pay FOIA-type fees for all of these services.

10. The FMC has evidently rejected the SEC's EDGAR approach of dissemination through the concept of level one-to-level two services (on-line -- level one; tape -- level two) access to the entire system at a significant cost to offset the cost of the system. Why did you choose instead to provide individual selective dial-up service to anyone?

As previously indicated, the Commission does not intend to disseminate any tariff products, - only to make information available to the public by request. For this type of service, the Commission is precluded from attempting to recover any part of the capital costs of the system. Only the marginal cost of reproduction under the FOIA can be charged.

The Commission is of the opinion that ATFI and EDGAR serve two very dissimilar, statutory functions, as further described in the "Report on Tariff Information Inquiry:"

> "(b) ATFI and EDGAR
>
> " Other than the fact that the FMC and the Securities and Exchange Commission (SEC) are both attempting to resolve their paper filing, processing and retrieval problems by means of ADP technology, there is little similarity between the FMC's ATFI system and the SEC's EDGAR system. ('EDGAR' stands for 'Electronic Data Gathering and Retrieval System.')
>
> " While both agencies need to examine and process data obtained from regulated industries, the purposes and products of the two systems are quite dissimilar and control all system functions.
>
> " EDGAR handles financial reports which are designed to disclose to the public as much accurate

information as possible concerning potential investments. The 9,000,000 pages of materials which EDGAR must handle annually remain pages when distributed in the form of complete copies in sufficient number to meet demand. A filed report does not change and may be amended only by the filing of another, complete report.

" On the other hand, the tariffs to be handled by ATFI contain the legal purchase cost or contract-of-carriage price from which neither shipper nor carrier can legally deviate. The 800 new tariffs filed each year start to become obsolete almost immediately as rates are changed by the filing carrier. Shippers and carriers, therefore, want to know the most recent amendment of a particular rate within the tariff. The 700,000 pages of tariff amendments which are filed each year will be restructured by ATFI into a data base format. The shipping public will be able to retrieve only the item(s) they request.

" If the information handled by ATFI is analogous to anything in which SEC is involved, it would be the stock market, itself, where a computer must try to keep up with frequent and rapid price changes for voluminous items. The carrier's rate is like a 'sell order,' which the buyer, the shipper, can utilize for the transportation of its cargo.

" Unlike the stock market, however, the carrier's 'sell order' or rate must be filed and effective at the FMC before it can be legally used in a sales or booking transaction. Until that rate is effective, the previous effective rate, whether higher or lower than the proposed rate, must be used if the shipper wants to utilize that carrier." [Pages 25-26.]

In regard to differently-priced services, the Commission believes that this will be accommodated by the three different types of retrieval. Until the system is in operation, however, the prices for these services cannot be set because the exact costs are not known.

See also the answer to question # 7.

11. The FMC is proposing to have 25 ports for access. How will you control these ports to provide equal access and a level playing field? Will it be possible for one person to call up in the morning and stay on all day? If so, why is this desirable? Who will pay for this access? Why isn't it sufficient to provide for dissemination through private sector sources.

The number "25" is an estimate of the number of ports that will be needed for the remote retrieval feature. The functional specifications are set forth in attachment J-1 (Page J-1-7) to the Commission's draft Request for Proposals:

> " b) Outside Dial-in
>
> " The system must support at least ten simultaneous external users for filing only. Two of these filing ports must be dedicated to batch submissions exclusively.
>
> " The system must also support an additional twenty-five simultaneous external users for retrievals.
>
> " Thus, a total of thirty-five simultaneous external users must be supported by the ATFI system. This number may change over time, and the system shall allow an expansion of 50% in the number of simultaneous external dial-in users." [Emphasis in original]

The estimates assume that, including expansion if necessary, some thirty-seven simultaneously available ports will be sufficient for all needs of dial-up retrieval, no matter how long one person stays on the line. Actually, logistics and economics will prevent a person from "hogging" a line for too long a period. Even if so, however, there could be up to thirty-six other lines available. Retrievers of tariff materials will pay user fees based on the marginal cost of reproduction. This will include connect time.

As indicated previously, this service is not "dissemination," but rather, providing access to the unprocessed, public tariff data in the Commission's files. Private sector sources would handle all value-added products being made available to the public. See the answer to question 7.

Since value added services will be able to offer a better product due to ATFI's conformity checking, current and new users of these services are likely to obtain enhanced products at lower prices. Third party vendors could pass their data entry and compilation economies along to their customers, which will probably reduce the likelihood of one person capturing a port for long periods of time. Since an ATFI data base will require the accessor to have particular knowledge of a carrier and its filed tariffs, it will be more advantageous for major tariff users to subscribe to a commercial service that can provide specific sort routines for geographic zones, commodity groups, and sailing schedules, which would be prohibitively expensive for the caller, if he or she were paying for connect time on ATFI.

12. By FEDERAL REGISTER notice dated December 22, 1987, the FMC stated that it "will not perform any value-added processing of the tariff data for sale to the shipping public in competition with commercial tariff services." Is the FMC still considering leaving public retrieval services in the ATFI system? If so, why? Why has the FMC continued to put off making a decision on this crucial issue?

By the "Report on Tariff Information Inquiry," attached as Appendix "A," the Commission has decided to leave public retrieval services in the ATFI system. Any such retrieval, however, will be of only raw, unprocessed, public tariff data. The reasons for this decision are contained in the answer to question 7. The "Report on Tariff Information Inquiry" was decided on April 12, 1988, and served on commenters and interested parties by mail on April 15, 1988. It appears in the April 20, 1988, FEDERAL REGISTER (53 FR 13066). The final decision on the Report was not made until after the due date (April 8) for questions and comments in the formal procurement, i.e., for the Presolicitation Conference to be held on April 28, 1988. Since none of these questions and comments materially affected the policy issues in the Notice of Inquiry, the Commission proceeded with its decision, which states, in part:

> " The Commission has decided to provide remote retrieval of tariffs by modem, given the policies underlying the Freedom of Information Act and the shipping statutes, and the estimated, relatively low cost of providing that service. As described in the Notice, members of the general public using this feature would be able to perform only relatively rudimentary retrievals, and essentially no analysis of the data. This means retrieval of only one tariff at a time, in its full format. To retrieve a tariff, the public user would have to specify the specific tariff of a particular carrier that is desired; the public user would not be able to search by keys, e.g., by route or commodity.
>
> " In making this decision, the Commission was also impressed by the fact that the few commercial shippers represented in the comments all urged the Commission to retain this function. Shippers are the primary users of tariff data and are the major beneficiaries of the tariff laws.
>
> " Otherwise, some commenters indicated that commercial tariff services would meet their needs. The Commission encourages the continuation of such 'third-party vendors' and the use of their services by those that desire them." [Pages 47-48.]

13. What mechanisms are to be created to assure that the standards developed by the contract do not adversely affect the activities of carriers and conferences?

The Commission assumes that the "standards" referred to in the question relate to the format of the tariff information to be filed under the ATFI system. The standards to be used will be primarily those developed by the Transportation Data Coordinating Committee (TDCC), which has established standards for arranging tariff information in packets for electronic transmission from one point to another. See the draft Request for Proposals, sections J-1 and J-2. The TDCC is an industry organization which has developed these standards, through participation of, inter alia, carriers and conferences, commercial tariff service firms, and the Information Industry Association. These standards will be revised periodically by TDCC to accommodate changed conditions and the Commission's Contractor must incorporate these changes in the ATFI system.

Based on the advice of its ATFI Industry Advisory Committee, the Commission has, for the time being, decided not to require standardized coding, such as for commodities or geographic areas. The system will accommodate coding by individual filers and, eventually, standardized coding, if it will not adversely affect the activities of carriers or conferences.

The Commission continues to follow the work of the North American EDI Users Group, the United Nations EDI deliberations, and the National Bureau of Standards' project on Government Open Systems Interconnections Protocols (GOSIP) to ensure the most flexible possible standards of interconnectivity with existing maritime industry computer systems.

14. It has come to my attention that an industry association requested (under the Freedom of Information Act) and was denied access to information on the costs and benefits associated with choosing definite specifications for the ATFI system. Why was this data denied, and would you make the benefit information available to the Committee and to outside industry groups?

The Information Industry Association (IIA) made a Freedom of Information Act request for the Benefit Cost Analysis which was prepared by a private sector contractor for the Commission and submitted to OMB. The FOIA request was denied and an appeal of the denial to the Chairman of the Commission was also denied. The "Report on Tariff

Information Inquiry" discusses the incident and reasons, as follows:

> " IIA observes that the Commission has greatly reduced the value of this proceeding by withholding relevant and vital information from its cost-benefit study requested by IIA in a Freedom of Information Act request. IIA indicates that while it is confident it could prevail on the merits, it is 'most loath to litigate,' in light of the attempt by all parties to engage in productive discourse in the Advisory Committee (of which IIA was a member), and the desirability of moving forward with the electronic filing endeavor. IIA further states that '. . . the FMC cannot have it both ways: it cannot withhold crucial information and simultaneously expect the private sector to believe that which is dubious or implausible.' [Page 14. Emphasis in the original.]
>
> * * *
>
> " **(9) Cost Benefit analysis.** The ATFI electronic tariff filing system will reduce the paperwork burden on filing parties (carriers and conferences) and the cost burdens on both regulated entities and the Government.
>
> " In order to obtain procurement authority from GSA, the FMC certified that a cost benefit analysis was performed and considered by the Commission. For budgetary requirements, the 'Benefit Cost Analysis' was developed by a private-sector contractor and submitted to OMB. OMB advised the Commission that the study was 'procurement sensitive' because its release to the public at this stage of the procurement could artificially peg the proposed prices submitted in response to the RFP. This means that the study will not be public until at least the best-and-final-offer procurement stage, when a supplemental cost benefit analysis will be conducted.
>
> " The disclosure of just the benefit data could also indirectly reveal cost estimates because the study calculated the extent to which the public and private benefits derived from the system will exceed the public and private costs.
>
> " The Benefit Cost Analysis was made before development of the draft RFP. More meaningful cost estimates must depend on the content of proposals, the contract price, and the resolution of the issues which are subject to this Notice of Inquiry proceeding." [Page 32.]

As indicated, the public disclosure of benefit data would indirectly disclose the costs, since the benefits were found to exceed the costs. The public disclosure of estimated costs, in turn, could adversely affect the prices contained in offers in response to the Request for Proposals. This would be detrimental to the Government. Disclosure to outside industry groups would be disclosure to the public.

The Commission would provide the Committee with a copy of the Benefit Cost Analysis. We would hope, however, that now that the sensitivity of the procurement issues has been explained, the Committee would take measures to insure that the Benefit Cost Analysis not be made available to any member of the public.

Once all or any part of the Benefit Cost Analysis is made available to any member of the public, it could lead to a fatal protest of the present procurement which could potentially delay tariff automation for years. Accordingly, if and when the Government has waived its right to withhold from the public any portion of the Benefit Cost Analysis, the Commission must know immediately so as to comply with the following regulation:

> " [48 CFR 15.402] (b) Contracting officers shall furnish identical information concerning a proposed acquisition to all prospective contractors. Government personnel shall not provide the advantage of advance knowledge concerning a future solicitation to any prospective contractor (but see 5.404, 15.404, and 15.405)."

The Committee should also be advised that members of IIA have requested to be placed on the Commission's list of offerors for the ATFI procurement. Disclosure of procurement-sensitive information to the IIA, whether formally or informally, could be imputed to its membership, and may result in depriving non-IIA affiliated offerors of an equal opportunity to compete for the ATFI contract. Under such circumstances, the Commission would be forced to take appropriate remedial actions, including but not limited to barring the IIA-affiliated firms from submitting proposals on the ATFI procurement.

ATTACHMENT TO QUESTION NO. 4
(JONES QUESTIONS)

US Department
of Transportation
**Maritime
Administration**

Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

12 APR 1988

Honorable James Joseph Carey
Vice Chairman
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573

Re: FMC Agreement No. 203-011171 -
Trans Freight Lines/Nedlloyd/Sea-Land
Cooperative Working Agreement

Dear Mr. Carey:

Your letter of March 31, 1988, raises a number of issues regarding MARAD's consideration of the above-referenced FMC agreement as expressed in the letter dated March 23, 1988, from the Secretary of the Maritime Administration (MARAD) to Sea-Land Corporation.

The purpose of MARAD's March 23 letter was to advise Sea-Land that, pursuant to Sections 9 and 41 of the Shipping Act, 1916, as amended (46 App. U.S.C. 808 and 839), the Acting Associate Administrator for Shipbuilding and Ship Operations had granted Sea-Land, subject to specified conditions, the necessary approvals to charter vessels and space to Nedlloyd and Trans Freight Lines (TFL). Section 9 provides, in pertinent part, that

> "...it shall be unlawful, without the approval of the Secretary of Transportation, to sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, or transfer or place under foreign registry or flag, any vessel or any interest therein owned in whole or in part by a citizen of the United States and documented under the laws of the United States . . .."

All of the vessels involved will be owned by Sea-Land and documented under the U.S. flag. Neither Nedlloyd nor TFL is a citizen of the U.S.

The first issue raised in your letter is that of delegation of authority to issue "Section 9" approvals. Section 1.66(a) of 49 CFR delegates from the Secretary of Transportation to the Maritime Administrator authority to, inter alia, carry out Sections 9 and 41 of the Shipping Act of 1916. Maritime Administrative Order (MAO) No. 70-1, effective February 28, 1986, redelegates this authority from the Maritime Administrator to the Associate Administrator for Shipbuilding, Operations, and Research ("Associate Administrator"). MAO 70-1 further provides that, in the absence of the Associate Administrator, the Deputy Associate Administrator shall act for him.

The second issue raised in your letter concerns one of the enumerated conditions upon which the Section 9 approval was granted. Section 41 of the 1916 Act provides, in part,

> "That whenever by said section nine or thirty-seven the approval of the Secretary of Transportation is required to render any act or transaction lawful, such approval may be accorded either absolutely or upon such conditions as the Secretary of Transportation prescribes. Whenever the approval of the Secretary of Transportation is accorded upon any condition a statement of such condition shall be entered upon his records and

> incorporated in the same document or paper which notifies the applicant of such approval. A violation of such condition so incorporated shall constitute a misdemeanor and shall be punishable by fine and imprisonment in the same manner, and shall subject the vessel, stocks, bonds, or other subject matter of the application conditionally approved to forfeiture in the same manner, as though the Act conditionally approved had been done without the approval of the Secretary of Transportation, but the offense shall be deemed to have been committed at the time of the violation of the condition."

MARAD's approval in this instance requires that

> "[I]n accordance with time charters and space charters in implementation of FMC Agreement No. 203-011171, no space on any vessel shall be utilized for the carriage of cargo reserved for United States-flag vessels under any statute, resolution or regulation unless such cargo is carried pursuant to bills of lading or contracts of carriage issued to, or entered into with, the shipper of such cargo by or for a citizen of the United States which is a party to said FMC Agreement . . . ."

You have asked whether it was "the conclusion of [MARAD] that the condition limiting to Sea-Land the carriage of restricted preference cargoes is necessary to further the policies of the 1916 Act." While that condition may arguably be necessary to further the policies of the 1916 Act, MARAD's duty under Section 9 is much broader. In passing on such applications, MARAD considers national defense, national economic welfare, and the development of the American merchant marine. As stated by the U.S. Claims Court,

> "The function of the officials of [MARAD], in regard to [foreign transfers], is to consult with the other Executive authorities having to do with national defense, foreign relations, national economy, and perhaps others, and learn whether the transfer would be compatible with national interests . . . . There are no doubt other matters, which do not occur to us, which they should consider. Suwannee Steamship Co. v. United States, 279 F.2d 874, 876 (Ct. Cl. 1960)."

While you note in your letter that Suwannee does place a limit on what MARAD can consider under Section 9, the Court characterized that limit as "allowing matters which have nothing to do with the case to be dragged in, and to affect decisions." Id. at 877.

Under the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 et seq.), MARAD is charged with the maintenance and development of a U.S. citizen-owned merchant fleet to support the national security and to develop our foreign commerce. The maintenance and development of the American merchant marine has always figured prominently in assessing Section 9 applications and there can be no debate that U.S. Government-impelled cargo, reserved by statute to U.S. carriers, helps to support the U.S. merchant marine, and therefore the national security and the national economic welfare. MARAD has consistently taken this approach. For example, in recent litigation (King Solomon Enterprises, Inc. v. US, CA No. 87-0278 (D.D.C. 1987)), MARAD maintained that Section 9 subsumes considerations of this country's national security and economic welfare and that the cargo preference programs further the national security and economic welfare. Also, in reviewing Section 9 applications, the availability of other U.S.-flag service in the trade may be considered. Alaska Excursion Cruises, Inc. v. U.S., 593 F. Supp. 14 (D.D.C. 1984). In view of MARAD's responsibilities as contained in Section 901(b)(2) of the 1936 Act to regulate the administration of the cargo preference programs, a condition of Section 9 approval respecting eligibility of the transferred vessel for carriage of preference cargo is entirely appropriate. In its March 23, 1988, letter to Sea-Land, MARAD explained that the condition at issue was being included in the Section 9 approval "In order . . . that these [cooperative working] agreements not be used as a means for non-U.S. citizen operators to gain access, which they did not previously have, to cargoes traditionally reserved by statute to U.S. carriers . . . ." That explanation expresses the conclusion of the Maritime Administration that the condition limiting to Sea-Land the carriage of restricted preference cargoes is necessary, given MARAD's mandate under the 1936 Act and our authority (indeed, obligation) under Sections 9 and 41 of the 1916 Act. It is our conviction that the benefits of cargo reservation should not accrue to non-citizens, even those utilizing space on U.S.-flag vessels, since those benefits are intended to enhance the American merchant marine.

Given MARAD's conclusion that the special authority granted the parties under Section 9 should not extend to the point of allowing Nedlloyd and TFL to do what they otherwise could not (carry reserved U.S. cargoes on the vessels), we did not assess the possible economic impact on Sea-Land if Nedlloyd and TFL were free to compete for such cargoes.

Copies of the Charter Orders issued to the parties in this proceeding are enclosed.

I would be pleased to provide any additional information you might require in this matter.

Sincerely,

JOHN GAUGHAN
Maritime Administrator

Enclosures

ATTACHMENT TO QUESTION NO. 5
(JONES QUESTIONS)

(SERVED)
(April 15, 1988)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

REPORT ON TARIFF AUTOMATION INQUIRY

In a Notice of Inquiry on Tariff Automation ("Notice"), published in the Federal Register on December 22, 1987 (52 FR 48504), the Federal Maritime Commission (the Commission or FMC) requested public views on the functionality of its proposed Automated Tariff Filing and Information System (ATFI).

The Notice indicated that the impact of the proposed system's functionality on the public and the shipping industry had been only recently developed in detail sufficient for meaningful review, i.e, by the following types of firms;

- The shipping industry, e.g., shippers, carriers, freight forwarders, and terminal operators;
- The information industry, e.g., the commercial firms who perform requested tariff filing, retrieval and watching services for the shipping industry; and
- Associations, small businesses, and other interested persons, such as the public and government agencies.

In response to the Notice, written comments were received as further described below. This Report:

A. Sets forth by major topic the proposed functionality of the system as described in the Notice;

B. Describes the comments received in response to the Notice;

C. Discusses the issues and questions raised; and

D. Contains the Commission's conclusions.

A. PROPOSED FUNCTIONALITY OF ATFI

1. BASIC SYSTEM. The electronic ATFI system, for which the Commission is seeking a prime contractor, will be run on the contractor's central computer with appropriate terminals at the Commission for tariff review, processing, and retrieval. The format of tariff data to be electronically filed is being developed in conjunction with the industry Transportation Data Coordinating Committee and will emphasize "tariff line items," *vis-a-vis*, tariff pages, as under the present system. "Tariff line items" are basically equivalent to commodity rate items in current paper tariffs and can be amended directly, without having to issue an entire revised page.

2. STANDARDIZED CODING. As recommended by the Commission's Advisory Committee, standardized commodity or geographic coding will not be mandated at the beginning, but the system must have the capability to provide for these functions at the appropriate time. The system will also include the essential terms of service contracts.

3. IMPLEMENTATION - EXEMPTIONS. The Commission will operate the ATFI system as a prototype for a period of at least six months to test it and improve its functionality and performance. Volunteers will be sought for this prototype operation, during which there will be public-comment rulemakings on the final format of electronic tariff data and for establishment of user fees. Full implementation of the system will be in phases to allow commercial firms time to adapt their operations. Exemptions, at least temporary, will be granted to some types of tariff filers who are not economically able to use the electronic system.

4. COMPATIBILITY - SECURITY. The system will be as compatible as possible with existing computer equipment through the use of software for full connectibility. The ATFI system will have appropriate security mechanisms to protect the integrity of the data base.

5. **FILING - EDIT CHECKS**. Filing of tariffs will be done primarily by using asynchronous terminals or microcomputers, dialing in with a modem to the Commission's data base. The filing software will provide on-line edit checks to ensure that the tariff information is correct and that basic statutory provisions are complied with before the tariff can be officially on file. Such edit checks, for example, will be able to electronically identify improper effective dates, such as a rate increase on less than 30-days notice. Other problems for which rejection is warranted, such as unclear or conflicting tariff provisions, will still have to be handled by FMC staff and, if necessary, resolved at the Commission level. The system's computer capabilities, however, will facilitate this process also.

Tariff filers will be able to file and amend their tariff materials by remote access directly to the ATFI system by carriers or conferences almost any time of day. The carrier or conference will be able to screen-scan its tariff so that the appropriate item can be amended. Commercial tariff services can also continue to be used by carriers and conferences for filing, e.g., by direct input into the data base, after creating tariffs on instruction from their clients, or transforming their paper tariffs into electronic form. The Commission will encourage commercial tariff services to assist small firms who may find it difficult to file electronically.

6. **AVAILABILITY OF UNPROCESSED DATA BASE**. Once the tariff data is officially on file, the Commission will download the entire data base in "flat files", formatted onto computer tapes which will be sold to any person at the relatively inexpensive, marginal cost of dissemination. This will satisfy the Commission's statutory duty of providing copies of tariffs at a reasonable charge. In order to keep up with a substantial number of rapidly changing freight rates in the shipping industry, however, interested persons must obtain these updated data base tapes frequently. The Commission will offer a subscription service to provide this capability.

7. VALUE-ADDED SERVICES. The Commission will not perform any value-added processing of the tariff data for sale to the shipping public in competition with commercial tariff services. It is expected that those services will subscribe to the data base tapes to facilitate their value-added services. The Commission must, however, use the system to process tariff data internally for investigative and other regulatory purposes and will continue to utilize appropriate and available, value-added services of commercial tariff firms for this purpose.

8. RETRIEVAL - PUBLIC REFERENCE ROOM. In order to carry out its statutory function of making tariffs and essential terms of service contracts available for public inspection, the Commission will continue to have a public reference room at its headquarters in Washington, D.C. Here, interested persons can access a terminal on which information on a particular tariff will be brought up on the screen and scanned to find the necessary rates and rules. Paper copies of tariff data will still be available upon written request, especially for certification to courts and other tribunals for proceedings involving disputes over historical tariff rates.

9. REMOTE RETRIEVAL BY MODEM. Another retrieval feature currently contained in the draft RFP is remote access to the Commission data base by modem, almost any time of day, for retrieval of tariff information by any interested person. This is described in the October 28, 1986 Feasibility Study Final Report as follows:

> " b. Retrieval and Analysis by the Public
>
> * * *
>
> "FMC would also allow remote access whereby a member of the general public could access the automated tariff system from remote locations. For example, the system would enable a shipper on the West Coast to retrieve data from the automated tariff system using a terminal or microcomputer equipped with a device (i.e., a modem) to enable data communications over public telephone lines.

> "However, members of the general public would only be able to perform relatively rudimentary retrievals, and essentially no analysis of the data. Specifically, members of the public would only be able to retrieve one tariff at a time, in its full format. To retrieve a tariff, the public user would have to specify the specific tariff of a particular carrier that is desired; the public user would not be able to search by keys (e.g., by route or commodity).
>
> "FMC has imposed these restrictions based on a careful analysis of applicable federal policies and precedents. FMC does not want to compete with third-party services for the provision of sophisticated retrieval and analysis of tariff data for shippers, carriers, and others in the private market. . . . In the absence of tariff automation -- i.e., the status quo -- FMC will make available copies of tariffs to members of the public only if they can specify the particular tariff desired. A user fee is assessed for this service. FMC would not expand these services after tariff automation is implemented. However, . . . FMC would help ensure that third-party services can provide such services." [Pages IV-8 and 9.]

However, due to concerns that the system would compete with commercial tariff information firms, the Commission announced in the Notice that it was considering not including this general electronic retrieval feature in its final RFP, thereby leaving this function to be performed solely by existing tariff services for their clients, as they do now in a paper environment. The change would not prevent carrier and conference filers from remotely accessing their own tariffs on the Commission's data base for retrieval, as well as for filing. Moreover, carriers would not be precluded from remotely accessing ATFI for conference tariffs to which they belong in order to check the official freight rates that should be charged to their shippers; and any person can use the terminals in the FMC public reading room for tariff retrieval. However, under this potential change, carriers would have remote access to their competitors' tariff data only through the value-added vendors that will provide this service.

B. RESPONSES TO THE NOTICE OF INQUIRY

The Commission received 19 separate responses to the Notice from Government agencies and departments, Congress, associations, steamship conferences, carriers, freight forwarders, a shipper, and firms in the information service industry. The following describes these comments.

1. Government Departments and Agencies

(a) The Department of Agriculture (Agriculture), through its Office of Transportation, notes the increasing dependence of Agriculture upon liner shipping and enthusiastically supports the ATFI project. Moreover, according to Agriculture, the provisions of the Shipping Act of 1984 which gave more rate negotiating freedoms to carriers and shippers also increased the need for shipping rate and other tariff information. The Department encourages the Commission to provide the remote retrieval feature, if possible, because it is beneficial to shippers. Since the public is provided only with relatively rudimentary capabilities, Agriculture states that ". . . it is hard to see that third-party services would be adversely affected. The FMC would simply be offering electronically what it now offers in paper form . . .."

(b) The Department of the Navy, through the Military Sealift Command (MSC), indicates that, for Department of Defense cargoes, it now subscribes to "RATES," a commercial tariff service and states that ATFI appears limited and unable to provide the retrieval of information in the manner provided by "RATES," i.e., retrieval of rate information by route, commodity, carrier or conference; and by individual pages and/or commodity items, without retrieving the tariff in its full format.

(c) The Department of Transportation (DOT) comments that many of the issues raised in the Notice are similar to those now being considered by DOT in developing the best approach to the automation of international airline tariffs, e.g., security, public access, and non-interference with existing commercial tariff information services. DOT requests that it be kept informed of developments.

(d) The Department of the Treasury, through the U.S. Customs Service (Customs), would hope to see a broad use of the Harmonized System of coding as a "core for a variety of applications in international transactions."

(e) The General Services Administration, through its Federal Supply Service (GSA-FSS), believes the proposed ATFI system would simplify the receipt, storage and retrieval of tariff information, and indicates that it operates, through a private contractor, an automated rate and routing system for domestic transportation. GSA-FSS offers to share its experience in the design and implementation of its system.

2. The Congress

(a) The Government Information, Justice, and Agriculture Subcommittee of the House Committee on Government Operations, through its Staff Director, acknowledges receipt of the Notice and indicates that the matter would be discussed with Chairman English.

Later, Congressman Glenn English responded, noting that "[I]n general, the ATFI system as described in the December notice is consistent with the policy standards for government electronic information systems set out by the Government Operations Committee in House Report 99-560."

Congressman English continued:

> "However, I find one aspect of the proposed system to be questionable. The notice indicates that the FMC contemplates providing a limited on-line retrieval service to tariff filers.
>
> "This raises some concern. Allowing any outside users to have direct, on-line access to the data base will make the entire system more complex. The system will require a larger capacity, additional security, and expensive equipment for support.
>
> "Tariff filers who might use this service would, in its absence, be served by the private companies that are likely to make tariff filings available to the public. In fact, the availability of on-line access from the FMC might inhibit the offering of tariff

> services by private sector data companies. The net result could be unnecessary interference with the development of a private market in tariff data.
>
> "I am not convinced by the notice that the offering of any type of on-line retrieval service by the FMC is necessary. It is not clear why tariff filers need to obtain from the FMC copies of tariffs that they have filed with the FMC. In contrast, the Securities and Exchange Commission's EDGAR system includes no similar capability. If the FMC determines that such a service is important, it will have to do a better job of documenting the need."

Congressman English closes by indicating that he will continue to monitor the progress of ATFI and requests that the Subcommittee be kept informed of any future developments.

3. The Transportation Data Coordinating Committee

The Transportation Data Coordinating Committee (TDCC) Ocean Standards Maintenance Committee, on behalf of the Electronic Data Interchange Association (EDI) standards, comments that the functional specifications published in the Notice are ". . . fully in tune with the needs of the Ocean Transportation Industry," for which TDCC has the responsibility of maintaining the EDI standards.

The TDCC's Ocean Standards Maintenance Committee includes in its membership technical and commercial representatives of ocean carriers, freight forwarders, terminal operators, port authorities, steamship conferences, customs brokers, ocean tariff publishing companies, Government agencies, and vendors of electronic interchange services.

TDCC "agrees" that the FMC must be the custodian of the single legal tariff data base that will govern all ocean freight rates that are used in the ocean transportation industry in the United States.

TDCC further supports the idea that public access to the ATFI system should be available only for relatively rudimentary retrievals, but that the system must have a provision for on-line retrieval of, and remote access to, ocean freight tariff information by the general public. There is, according to TDCC, a "real need" in the ocean transportation industry for this on-line and remote access feature. TDCC would like to see full implementation of the system as soon as possible.

4. Steamship Conferences and Carriers

(a) The Inter-American Freight Conference (IAFC) has 4 sections whose 14 member lines serve the trades between Argentina, Brazil, Paraguay, Uruguay and U.S. Atlantic and Gulf ports. According to IAFC, the ATFI system should provide for retrieval based on international communications standards, such as the EDI standards of TDCC (See # 3, above), but indicates that replacement of IAFC's expensive computer hardware and software solely to meet FMC tariff requirements would be prohibitive.

Since two of its Northbound Tariffs are not computer produced and are transmitted by page through a facsimile device or by courier, IAFC is opposed to doing away with page filings. Due to the fact that it uses an alphabetical-based tariff, IAFC is also against requiring tariffs to be indexed using unique tariff item numbers.

IAFC states that "The FMC should not create a new unique structure and system for tariffs, when a variety of methods already exist with current third party vendors." Further, IAFC argues that the Commission should maintain retrieval potential for the filers of their own tariffs, not for competitive tariffs, which should be left to third party vendors. However, charges for receipt of updated FMC data by such third party vendors should cover more of the system costs than just the incremental charges for extraction of the data.

Finally, IAFC is concerned about filing charges and indicates that other users, not just filers, must pay a "fair share."

(b) The Transpacific Westbound Rate Agreement (TWRA) is comprised of 13 carriers in the trades from the United States and Canada to the Far East and filed 65,000 tariff pages with the Commission in 1987.

The Managing Director of TWRA, speaking for himself, states that "Many of these entities [existing commercial services] have a vested interest in retaining the existing tariff page structure, and converting it to a data base, which will ultimately prove costly to the carriers, and the FMC." Logically, according to the Managing Director of TWRA, ". . . a data base should be used to create a tariff, not vice-versa." He believes that the data base approach is the logical system and could be used to produce paper tariffs for countries with limited computer capabilities.

On the subject of the distribution of the unprocessed data base on tapes, the Managing Director of TWRA suggests that a frequency of something between daily and monthly could be worked out.

The Managing Director of TWRA agrees that the Commission should not compete with value-added vendors. Further, he is opposed to the remote retrieval of tariff information by modem directly from the ATFI system because it would interfere with the sale of rates services by commercial entities. Without a commensurate hourly charge to offset the usage, it might also result in a substantial expense to the Commission which could not be retrieved by revenues. It is his belief that ". . . the only public reference room that the Commission should utilize is at [FMC] headquarters in Washington, D.C."

(c) The United States-European Carrier Associations (USECA) includes conferences operating on major trade routes in the foreign commerce of the United States, i.e., the North Europe-U.S. Gulf Freight Association (NEGFA); the Gulf-European Freight Association (GEFA); the North Europe-U.S. Atlantic Conference (NEAC); the U.S. Atlantic-North Europe Conference (ANEC); and the Trans-Atlantic American Flag Liner Operators Agreement (TAAFLO).

Tariff filing is a major function of USECA parties. In noting that the format of tariff data to be electronically filed on the ATFI system is being developed in conjunction with TDCC (above), USECA ". . . unequivocably supports the path FMC proposes to take . . . and asserts that it is functionally heading in the right direction." The entire Commission proposed system, as noted in the Federal Register, has USECA's complete backing.

Since current tariff systems employed by USECA groups are geared to the electronic page format, they will be totally incompatible with the FMC's proposed standards. Thus, the USECA parties, as well as individual common carriers, must be prepared for the eventual switch to the data element system. USECA further states that all tariff filers will have to adopt the same EDI standards in order to transmit or retrieve tariff data. The new system, however, must also have the ability to compile the elements into a page format.

Two USECA members, ANEC and NEAC, are currently developing tariff systems based on data element entry and are "eager" to be among the tariff filers selected to test the prototype operation.

(d) **Sea-Land Service Inc. (Sea-Land)** is a common carrier by water in the foreign and domestic offshore commerce of the United States and files 59 tariffs with the Commission, all of which are prepared and transmitted electronically. Additionally, Sea-Land is a member of 21 tariff-filing conferences or agreements.

Sea-Land indicates that the basic functionality of the proposed system as described in the Notice is ". . . without reservation, consistent with Sea-Land's operational needs" and supports Sea-Land's current and future development efforts.

Sea-Land also volunteers for the prototype operation and states:

> "The specifics of the ATFI system, such as standard tariff data format, tariff line item control, dial-up capability for filing, and general inquiries, provide the required functionality and enforce the necessary

> standardization. The phased implementation of the proposed system also takes into consideration the time required for users to modify their internal operations."

5. Freight Forwarders and Customs Brokers

(a) **The Pacific Coast Council of Customs Brokers and Freight Forwarders Assn., Inc. (PCC)**, which represents approximately 450 freight forwarders/customs broker firms, indicates that it is pleased to see the Commission proceeding with the RFP.

PCC is opposed to deleting the remote-retrieval function which would eliminate direct access to the tariff data base. It feels very strongly that its members and the shipping public should have such access which is essential to the service which PCC members wish to provide.

PCC notes that, without mandated standardization (e.g., commodity classifications, etc.), the task to present raw data in electronically intelligible form is unmanageable but would be feasible if ocean carriers were directed to provide the Commission with a standard format to be used by all carriers.

(b) Leading Forwarders, Inc. (Leading), a freight forwarder and customs broker, is of the opinion that the proposed ATFI system, along with the Customs' Automated Commercial System, will too easily provide information to foreign competitors, to the competitive disadvantage of American forwarders. Since the information is ". . . our information and not theirs, as long as the rules of the trade game are different for foreigners and Americans, it is my humble opinion that it can hurt us and will hurt us."

6. Shippers

Warner Lambert Company (Warner Lambert) is a user of maritime transportation services to and from the United States and, as such, makes use of published tariff information. Warner Lambert notes that the Commission seems to seek public support for the inaccessibility of such data by the general public on the grounds that it does not want to compete with private third party services of tariff data retrieval systems. Warner Lambert continues:

> "We believe this is ill advised. In our opinion efforts should be made not to frustrate but to facilitate direct remote access to the data base by the general public. This should be accomplished through a rudimentary capacity to search for individual commodity rates and rules through a menu driven index system and basic facility to dow[n]load selected files.
>
> "In our view, such a capacity is neither particularly sophisticated nor does it represent the kind of commercial value-added service which should be properly left to the private sector for development and marketing.
>
> "Moreover, it seems entirely reasonable that the Commission should make this capability available to the general public on a fee basis through a "900" telephone number charge system. Reasonable because the ATFI system will be funded by the federal government, i.e., the taxpayer. Reasonable because the system, in this sense, belongs to the general public. Reasonable because to do otherwise would almost be more difficult and certainly less than optimal given the state of modern computing technology.
>
> "We do not believe that the Commission should compete with commercial tariff services. However, we are more strongly of the opinion that the Commission should not deliberately suboptimize the ATFI system in order to avoid such competition.
>
> "Indeed, facilitating the recommended data access capability will not eliminate the market for value added services and products. What will be eliminated will be the wasteful, costly and technologically archaic means of manually collecting data. The primary beneficiaries of this development will be the value added services themselves."

7. The Information Industry Association and Firms

The Commission sent copies of the Notice to 16 tariff service firms and the Information Industry Association with a letter of transmittal which stated in pertinent part:

> "The Federal Maritime Commission is especially interested in how the proposed functionality may affect the information industry, including existing commercial tariff services. In particular, we would appreciate comment on the extent to which commercial firms would provide the general electronic retrieval feature if the Commission, itself, does not provide for it in the technical specifications."

The Association and three firms responded.

(a) The Information Industry Association (IIA) is a trade association serving over 600 companies pursuing business opportunities associated with the generation, distribution and use of information.

IIA observes that the Commission has greatly reduced the value of this proceeding by withholding relevant and vital information from its cost-benefit study requested by IIA in a Freedom of Information Act request. IIA indicates that while it is confident it could prevail on the merits, it is "most loath to litigate," in light of the attempt by all parties to engage in productive discourse in the Advisory Committee (of which IIA was a member), and the desirability of moving forward with the electronic filing endeavor. IIA further states that ". . . the FMC cannot have it both ways: it cannot withhold crucial information and simultaneously expect the private sector to believe that which is dubious or implausible." [Emphasis in the original.]

On the proposed functionality, IIA indicates that there remain unanswered questions whose resolution could depend, at least in part, upon the results of the withheld analysis:

> "First, what is the basis for the distinction between remote access by a filer to its own tariffs and any other usage? Without dispute, there is a

functional need for verification by a filing party of its own filing, but that need does not itself compel the conclusion being suggested. We are now [sic] told how many more computer ports would be needed to support such access, how much more CPU capacity -- in short, what it would cost. Nor are we told what marginal benefits would accrue, in terms of gains in consumers' surplus, or in any other measure. Against all this uncertainty, there are the considerations that no such system feature is absolutely necessary and that such filer access would hobble private incentive. The OMB Circular [A-130] represents a sound judgment that the value-added remote access part of the information chain or life-cycle is one which ought to be supported by voluntary risk capital rather than by involuntary taxes. The FMC cannot err by respecting this judgment and is quite likely to err if it does not.

"Second, the whole subject of database file structure, possible transition over time from the current page format to a relational database structure, and FMC mandatory input format cries out for informed structure by affected parties in the private sector. Even without the numbers to address these interrelated matters, the following can be said with confidence:

"1) The existing page format is not an end-all and be-all. However, it has worked well for all intents and purposes to date.

"2) The FMC does have some legitimately different functions than any private users, so that a file structure that has arisen for private-sector users is not necessarily optimized for government use as well. However, the FMC has failed to explain publicly just how an expensive change to a new file structure would improve its mission accomplishment, such as by enforcing common carrier obligations.

"3) These are exactly the sort of questions that should be resolved rationally on a cost-benefit basis.

"4) Particularly on this point, for the FMC to withhold the analysis is ultimately futile. Any FMC rule making on mandatory input format will be reviewed by OMB under the Paperwork Reduction Act. In accordance with the objectives of that Act, any proposed rule will have to pass muster under a cost-benefit test or some variation thereof. In any event, the least-cost alternative for society -- the sum of costs to the government and the private sector -- is that which should be selected." [Emphasis in the original.]

In response to the question presented to electronic service firms, IIA indicated that ". . . it is clear as it can be that private companies will continue to offer such services."

Asking for a level playing field, IIA urges that the incumbent contractor have no unearned or special advantage in value-added retail products and that all comers should be able to get tapes in raw output form rapidly, on the same terms and conditions, at true marginal or reproduction cost.

IIA also reserves the right to submit additional comments if and when the cost-benefit analysis is released.

(b) Studley Associates, Inc., (Studley) provides computerized tariff services and is a licensed FMC practitioner.

Studley expresses concern about the timeliness of the availability of the raw data tapes and whether or not there will be a device to make such tapes usable on some electronic systems of the commercial tariff services and carriers. On the remote retrieval feature, Studley comments:

> "While the proposed 'Remote Access Retrieval of Tariff Information' from the Commission's data base by modem almost any time of day seems to be a positive feature, there is concern that the ATFI System be compatible with present computer equipment not only for the retrieval of information but also for filing purposes."

Studley would also want an opportunity to test the functionality and performance of the prototype operation.

(c) Transportation Tariff Publishers, Inc. (TTP) files tariffs (and changes) at the Commission on behalf of approximately 25 different common carriers per month.

TTP's concerns about the ATFI system include: types of equipment needed; its cost for purchase and maintenance of equipment and software; access to the FMC's data base; length of time and procedures for preparing and transmitting tariffs, including the possibility of hand delivery of a disk or tape; delegations of authority; availability of raw data tapes; the number of public terminals in the public reference room; ability to access tariffs that it does not file; potential distinction in treatment between a "watching service" and a "tariff publishing company;" and possible temporary exemptions for third party vendors.

TTP adds that it will still have the need to provide its clients with paper (hard) copies of their own tariff pages and asks the Commission not ". . . to overlook the needs of the small tariff users, as well as, the thousands of people that must deal with 'paper' tariff pages every day of their lives."

(d) Transax/RATES® (Transax) is a division of Journal of Commerce, Inc., which is a wholly owned subsidiary of Knight Ridder. Transax is one of the "leading" maritime tariff publishing companies and maintains an on-line electronic data base of currently in effect tariffs filed with the FMC, as well as off-line historical tariffs for at least five years. Transax also has developed "Compiler II" and "Shiprate," which is a service providing on-line access by a steamship company to its own tariffs, including unregulated tariffs which are not on file with the FMC.

Over the last five years, Transax has invested over ten million dollars in hardware and software development and operational costs and is ". . . now just beginning to break even in the data base retrieval segment" of its business. While Transax may make a submission in response to the FMC's Request for Proposals for the ATFI system, it is commenting here on how the proposed functionality of the system described in the Notice may impact its future operations.

Transax asks for a level playing field, such as provided in H.R. 2600 authorizing the SEC's EDGAR program, so that the contractor does not obtain undue advantage in the provision of retail services.

With respect to standardization, Transax indicates that the EDGAR program is a more appropriate response to the issue of transmission of electronic filings. EDGAR would also allow the filing of data on other media like floppy disks which would provide greater flexibility. Transax asks for clarification of whether the FMC will allow batch filing using the EDI standards, an approach which would be less expensive than the on-line system. Transax states that ". . . a tariff filer would prefer to modify their own copy of a tariff and then transmit the changes to the FMC rather than recreating the modifications at the FMC in an on-line environment."

At the same time, Transax indicates that the EDI approach is not required for effecting tariff filing and may create major difficulties for many filers. The tariff page approach as a transition strategy, ". . . while possibly not as technically elegant, is far more cost justified. . .."

Transax commends the FMC for its concern of not competing with the private sector and states that the FMC has appropriately approached the issue of tape dissemination to those in the private sector who will provide value-added services.

Transax strongly supports the elimination of the general electronic retrieval feature and indicates that it, and probably other firms, will continue to supply retrieval services to the public. On this issue, Transax further states:

> "We, however, strongly object to a filer's on-line general retrieval of its own tariffs and to those of the conferences to which it is a member. Present private sector electronic filing technology not only gives 'proof' of receipt of transmissions but the filer can retrieve the tariff page from the current data base that resides in the filer's computer. Given our previously stated position that on-line interactive access is not necessary, we do not accept the premise that the system has to be developed in such a way as to mandate on-line interactive access. Clearly, the SEC has gone in a different direction and the dissemination of the EDGAR data base is left up to the private sector with the contractor providing wholesale electronic products (both tape and electronic batch access) under a regulated pricing scheme. Clearly, a similar approach could be adopted by the FMC.
>
> "Allowing a carrier unlimited on-line interactive access to their own tariffs and to the tariffs of conferences to which they are members could prove quite expensive to the FMC. Should a carrier use this access for rate quotation or other marketing functions, the number of transactions from our experience may increase by a factor of twenty to fifty. This would require significantly greater resources for communication and for computing power than that required to meet the FMC's internal automation requirements. This additional 'capital' expense cannot, of course, be offset by user fees which has been clearly stated by the GAO in the context of the EDGAR program. Such fees can be used for marginal dissemination costs only, such as the cost of magnetic tapes.
>
> "However, accepting the functional approach set forth by the FMC, a filer should be able to obtain access only to the FMC ATFI system for the purpose of filing or amending tariffs. The suggestion of the FMC

that a filer should have unlimited access to the ATFI system is providing a service far beyond the needs of the ATFI system. There needs to be a line drawn separating legitimate FMC activities and the provision of commercial services. Unlimited filer access to its tariffs as such is a commercial service in competition with our Shiprate service and will require a far larger taxpayer investment than otherwise would reasonably be required to operate this system. Enforcement of a restriction limiting the use of the ATFI system could easily be maintained by activity monitoring and limiting which carrier employees may have access on its behalf to the ATFI system.

"Under OMB Circular A-130, Federal agencies are admonished not to disseminate new information products and services unless they are:

> (a) Specifically required by law; or
>
> (b) Necessary for the proper performance of agency functions, provided that the latter do not duplicate similar products or services that are or would otherwise be provided by other government or private sector organizations.
>
> OMB Circular A-130 §8.a.(9).

"The FMC has no authority to disseminate tariff information products and services. Under the FMC's existing regulations, tariffs are not distributed or disseminated by the FMC. Tariffs are merely "available for inspection and copying upon request in writing addressed to the Office of the Secretary." 46 C.F.R. §503.32(c). In contrast, in Section 8 of the Shipping Act of 1984, Congress provided that carriers and conferences must 'keep open for public inspection tariffs' and that 'copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them." (46 U.S.C. §1707). Therefore, Congress did not look to the FMC as the source of tariff information, rather it accepted the concept of tariff publishing which is the primary means of disseminating tariffs.

"The proposed ATFI system would directly compete with existing private sector tariff filing, publishing and disseminating services. In 1984, when Congress reflected on whether to continue tariff filing with the FMC, it was noted that an FMC survey of shippers revealed that of the 25 surveyed not one relied on FMC files as their source of tariff information. See H.R. Rep. No. 98-53, Part I pp. 79-80 (additional views of Hon. Gene Snyder), reprinted in, 1984 U.S. Code Cong. & Admin. News 219-220.

> "Rather, then as today, most carriers, shippers and others rely on commercial tariff filing, publishing and retrieval services. Private industry and not the FMC has been relied upon as a source of tariff information. It is disturbing that the FMC is using its legitimate needs for improved automation as a justification for providing services to the carriers which have traditionally been provided by the private sector.
>
> "If the FMC insists on providing data base retrieval to the maritime industry, it is putting that industry at great risk. Future budget restrictions may require a scaling back of services and activities of the FMC after private sector innovation has been driven from the scene. We and others will continue to provide value added services based upon the government's tapes. However, if due to budgetary constraints, quality control is lessened and those tapes degrade in quality or are discontinued, private sector vendors will not be in the position to provide such services. The primary concern of OMB Circular A-130 is to create a variety of services and to reduce costs to the Government. The FMC should foster private sector dissemination by limiting its own role in dissemination."

* * *

No other comments were filed in response to the Notice.

C. DISCUSSION

1. Background and General Considerations

Some of the commenters in this proceeding have raised questions about matters which are much more fundamental than the issues on functionality presented in the Notice. To ensure complete understanding of the Commission's statutory responsibilities, the nature of steamship tariffs, the ATFI system concept, and historical development to date, the following topics are analyzed before addressing the specifics of functionality.

(a) Tariffs and Statutory Responsibilities

The Commission administers, inter alia, the Shipping Act, 1916, and the Shipping Act of 1984, which apply to domestic offshore commerce (e.g., between the mainland and Hawaii or Puerto Rico), and to foreign commerce, respectively, for both inbound and outbound waterborne transportation. The statutes require that common carriers by water in these trades file and keep open to public inspection their "tariffs." Additionally, the Shipping Act of 1984 requires that service contracts be filed and that their essential terms be made available to the public in tariff format. See 46 U.S.C. app. §§ 817, 844 and 1707.

A "tariff" is a list of rates, charges and rules applicable to the transportation of cargo. A service contract is a special agreement between shipper(s) and carrier(s) governing transportation of a certain minimum quantity of the shipper's cargo over a period of time in consideration for a commitment by the carrier of a certain rate and service level. When a service contract is filed, the filer is also required to submit a Statement of Essential Terms, which contains the rates, charges and rules for a specific service contract.

The statutes and implementing regulations require the Commission to ensure that certain essentials are complied with before tariff material is accepted for filing. For example, a tariff, or amendment thereto, must not be unclear or indefinite and must not duplicate or conflict with other tariff provisions already in effect. Moreover, tariffs must contain effective-date provisions in compliance with the statutes, e.g., a minimum of 30 days for a rate increase. If a tariff filing is defective in any of these respects, it is rejected and must be refiled in the proper form and manner before the tariff is considered officially filed. See 46 CFR Parts 515, 550, 580 and 581.

Once the tariff is officially filed and the rate becomes effective, it determines the exact amount of freight to be paid by the shipper and collected by the carrier under the bill of lading or other type of transportation contract.

In addition to being a schedule of rates, the tariff of a carrier or conference is used as a marketing brochure, and a copy of a tariff on file with the Commission is made available by the filer to anyone at a reasonable charge. 46 CFR 550.3 and 580.3. This is often done by subscription.

Tariffs are used by shippers to shop for the best rate and service. They also are used extensively by carriers and conferences to see what their competition is doing.

Some of the practical consequences of a tariff-filing requirement are:

o The tariff provision must be in writing (or, in the case of AFTI, the electronic equivalent) and not a verbal quote. Moreover, there can be only one "writing" used for a particular period of time.

This prevents one shipper from being charged a rate different from that "quoted." It also prevents one shipper being charged a rate different from that charged to another shipper for the same cargo at the same time.

o Tariffs are filed and maintained in a central place.

This permits the interested person to access any tariff from one location, without having to obtain copies from every carrier in a relevant trade. The third-party vendors assist in this function by using tariff data filed at the Commission.

- **If there is a dispute over a tariff provision, the official evidence needed to resolve the dispute is retrieved from the central repository.**

With the tariffs filed with and maintained by the Government, there can be no argument that a tariff page, maintained by a commercial firm in the normal course of business, was not the same tariff page used in booking the shipment. The shipment in question could have occurred over three years before final adjudication of the dispute. During fiscal year 1987, FMC cases involving problems between shipper and carrier and which required evidentiary tariff materials from the FMC's official files, included 125 Special Dockets and 42 Informal Dockets.

In order to prevent discrimination among shippers and unfair competition among carriers, there are substantial penalties for not filing, or if properly filed, for not adhering to the provisions of a tariff or service contract. See, e.g., 46 U.S.C. app. §§ 812, 815, 818, 1708 and 1709.

In addition to enforcing these penalties, the Commission uses the filed tariff data for surveillance and other regulatory purposes and, in its proceedings, adjudicates tariff issues raised by private parties. For Commission proceedings, as well as in any court case throughout the country, the tariff provision, on file at the FMC and in effect, is official evidence of the applicable tariff rate, charge or rule, when so "certified" by the Commission.

Accordingly, as relevant to ATFI and as set forth in the Notice, the Commission has the responsibility under the shipping statutes to:

> 1. Accept the filing of common carrier tariffs and service contracts containing rates and charges governing transportation of cargo in U.S. waterborne domestic offshore and foreign commerce. (Marine terminal operators also file tariffs of their rates and charges.)
>
> 2. Ensure that tariffs and service contract data comply with basic statutory requirements before they are accepted for filing.

3. Maintain the official file of tariffs and service contracts and certify authentic and accurate tariff data to courts and other tribunals.

4. Ensure that tariffs and the essential terms of service contracts are available for public inspection.

In addition to its basic duties under the shipping statutes, the Commission is required to comply with the terms and policies of other statutes and regulations, such as the Freedom of Information Act. 5 U.S.C. 552. Therefore, because filed tariffs are public records, the Commission is under a legal obligation to make these records promptly available to any person. Making these records "available" includes making copies upon written request at reasonable fees. See 46 CFR §§ 503.31, 503.32(c), and 503.41 - 503.43. This type of activity is a routine matter when a member of the public requests tariff materials from the Commission's public reference room. Also, tariffs are required to be filed at the FMC in duplicate or triplicate (see 46 CFR §§ 515.3, 550.3(g), and 580.3(f)), and as an accommodation, the Commission provides one copy of all tariff materials to be shared by commercial tariff services.

(b) ATFI and EDGAR

Other than the fact that the FMC and the Securities and Exchange Commission (SEC) are both attempting to resolve their paper filing, processing and retrieval problems by means of ADP technology, there is little similarity between the FMC's ATFI system and the SEC's EDGAR system. ("EDGAR" stands for "Electronic Data Gathering and Retrieval System.")

While both agencies need to examine and process data obtained from regulated industries, the purposes and products of the two systems are quite dissimilar and control all system functions.

EDGAR handles financial reports which are designed to disclose to the public as much accurate information as possible concerning potential investments. The 9,000,000 pages of materials which EDGAR must handle annually remain pages when distributed in the form of complete copies in sufficient number to meet demand. A filed report does not change and may be amended only by the filing of another, complete report.

On the other hand, the tariffs to be handled by ATFI contain the legal purchase cost or contract-of-carriage price from which neither shipper nor carrier can legally deviate. The 800 new tariffs filed each year start to become obsolete almost immediately as rates are changed by the filing carrier. Shippers and carriers, therefore, want to know the most recent amendment of a particular rate within the tariff. The 700,000 pages of tariff amendments which are filed each year will be restructured by ATFI into a data base format. The shipping public will be able to retrieve only the item(s) they request.

If the information handled by ATFI is analogous to anything in which SEC is involved, it would be the stock market, itself, where a computer must try to keep up with frequent and rapid price changes for voluminous items. The carrier's rate is like a "sell order," which the buyer, the shipper, can utilize for the transportation of its cargo.

Unlike the stock market, however, the carrier's "sell order" or rate must be filed and effective at the FMC before it can be legally used in a sales or booking transaction. Until that rate is effective, the previous effective rate, whether higher or lower than the proposed rate, must be used if the shipper wants to utilize that carrier.

(c) Federal Policies Considered in ATFI

Throughout the development of the plans for an automated tariff system, the Commission has considered and will continue to consider all applicable Federal policies. In addition to the procurement regulations, the major policy sources for the project are contained in the following (and statutes cited therein):

- OMB Circular No. A-76 (Revised), Performance of Commercial Activities ("A-76");
- The April 29, 1986 English Subcommittee's Report, Electronic Collection and Dissemination of Information by Federal Agencies: A Policy Overview (28th Report by the Committee on Government Operations, House Report 99-560, 99th Cong., 2d Session) ("English Report"); and
- OMB Circular No. A-130, Management of Federal Information Resources, December 24, 1985 (50 FR 52730); and subsequent proposed Notice of Policy Guidance on Electronic Collection of Information, August 7, 1987 (52 FR 29454)("A-130").

The Commission, in its Feasibility Study, determined that conditions favor the electronic collection of tariff information for public access. A substantial proportion of the firms involved already possess the necessary information technology. Otherwise, the computer equipment needed to be acquired will be relatively inexpensive. Both filing and retrieval of tariff data should eventually be more convenient for interested firms, including small businesses. There is a large volume of tariff data, filed by a large number of firms, and accessed by a large number of people. The filings are very frequent, especially by the larger carriers and conferences and, while the rates will change, the format of the information sought will not vary substantially over several years.

The draft RFP calls for use of existing software to the extent available. It appears that no other agency with the responsibility of maintaining public tariffs has developed software with the edit checks required by the shipping statutes. The extent to which Government- or private-sector-developed software can be readily adapted to meet the Commission's needs should be reflected in the proposals received through the procurement phase. The draft RFP requires the proposals to use Federal Information Processing and Telecommunications Standards.

The ATFI system is designed to integrate filing and retrieval of tariff data insofar as possible. It will allow the Commission to upgrade its own ability to access, copy, and manipulate data and to perform its information management activities in an efficient, effective and economical manner. Moreover, the system will promote the free flow of information between the Government and its citizens.

The Commission is, therefore, actively pursuing the design of this electronic collection system through technical assistance from several private-sector firms and is acquiring the technology for the development of the system by competitive procurement.

Other efforts by the Commission to further comply with Federal policies are briefly described as follows:

(1) A-76. Appendix IV to A-130 indicates that the circular in no way intends to abrogate any "inherent governmental function" policy. The FMC, therefore must ensure that such functions are properly carried out.

Under the guidelines in A-76, the Commission has considered the idea of "franchising" its tariff functions to private sector firms. The purely ministerial functions of retention and distribution of tariff data could be delegated under the Circular. Accordingly, the FMC intends to contract with a private firm to maintain the ADP facility and allow third-party vendors to continue selling value-added data to the public. The Commission's discretionary decisionmaking authority, however, is an inherent governmental function which cannot be delegated to private parties, and includes the following statutory functions:

- Rejection by the Commission of tariffs not filed in accordance with Commission-prescribed form and manner (governed by statutory provisions). 46 U.S.C. app. §§ 844 and 1707(f).

- Special permission to depart from statutory notice of 30 days for tariff rate increases. 46 U.S.C. app. 844 and 1707(d).

- Suspension and disapproval of controlled carrier rates below a just and reasonable level. 46 U.S.C. app. 1708(d).

- Enforcement of adherence to filed rates and charges. 46 U.S.C. app. 812, 815, 817, and 1709.

- Furnishing data requested under the FOIA.

If the private contractor is limited to maintaining the ADP facility and FMC personnel remain responsible for the review of all input/output operations and any other tariff functions requiring the exercise of judgment or discretion, the ATFI system will comply with the legal and policy requirements of A-76.

(2) Public access to agency records. Because the electronic data will be made available to the public at the marginal cost of reproduction, which is anticipated to be relatively inexpensive, the public user will share in the benefits of automation. Tariff data in paper form will be made available upon request under the Freedom of Information Act, usually for certification to a court as evidence of a rate in effect at a particular time. Also, for tariff filers who cannot economically file in an electronic format, the Commission will consider granting exemptions and will facilitate the utilization of tariff services, but will ensure that the electronic data base is complete.

(3) Copyright policy. The Commission's public data base of tariff material required to be filed by statute cannot be copyrighted. The copyrights to any other materials associated with the ATFI system will be controlled by the Government.

(4) Consulting with public users. The Commission took positive steps at very early stages of this project to identify the needs of users of its proposed automated tariff filing and information system.

In 1983, the Commission conducted a survey of industry views on tariff automation. This was followed with the publication of a notice in Commerce Business Daily seeking sources for an electronic filing, storage, and retrieval system for tariffs. This notice attracted a response from 31 parties.

Following establishment of an internal FMC task force under the chairmanship of James J. Carey, Vice Chairman of the Commission, another survey was conducted among those entities expressing an interest in tariff automation and a sampling of carriers, conferences, freight forwarders, and shippers.

Subsequently, the Commission established an industry advisory committee "to make continuing recommendations on the implementation of an automated tariff filing and information system." The advisory committee included representatives of all parts of the industry.

The Commission is continuing to consult with all parties affected by or interested in ATFI, e.g., communications with the Transportation Data Coordinating Committee; a presolicitation conference with 130 potential offerors, for comment and questions on a draft RFP for the ATFI system procurement; and soliciting comments from the shipping and information industry in this Notice of Inquiry proceeding.

The Commission is considering the need to provide for the transition from paper tariffs to an ADP data base system. A prototype operation and gradual phase-in stage are planned for this purpose. Many tariff filers already have some type of ADP capability. The ATFI system will be designed to minimize the cost of ADP equipment needed to access the data base and for the conversion of existing data.

(5) Open, competitive procurements. The Commission has provided substantial advance notice of the nature and functions of its intended system and is planning a competitive procurement in compliance with all Government laws, regulations and guidelines.

(6) User fees. In order that the Commission can supervise the integrity of its tariff files, a single automated data base is planned for both filing and retrieval of the tariffs. User fees will be considered in a public rulemaking proceeding pursuant to 31 U.S.C. 9701, to be initiated during the prototype operation. Retrieval fees will be based on the marginal cost of reproduction. Filing fees will be based primarily on the benefit to the recipient but may be minimal because of the depressed economic situation in the shipping industry. Several carriers and conferences have volunteered to participate in the prototype operation and would not be charged filing fees during this phase.

It is intended that private sector contractors will not pay for the costs of governmental functions involved in ATFI.

(7) **Competition with the private sector.** The Commission has examined private sources for both filing and retrieval functions. In this connection, it is noted that a substantial portion of the Commission's tariff files are created by firms which, as the legal agents of regulated parties, specialize in the business of filing tariffs. It is not the Commission's intention to jeopardize the economic bases of these firms, but to replace the manual method or manner in which tariffs are filed and retrieved with more modern technology. The Commission believes that the functions of tariff filing services will be enhanced by automation and that the communications features of ATFI will encourage the development of additional products and services.

The Commission is aware of the substantial investments to facilitate automated retrieval made by a number of the 15 - 20 commercial firms which have offered various types and levels of rate retrieval based upon the Commission's tariff records. Accordingly, the ATFI proposal has been designed to avoid competition with private sector automated value-added vendors.

Rather, the ATFI system will provide current and future commercial firms with access to the Commission's data base through computer tape. This should facilitate a continuing role for such firms in the providing of value-added services.

Under this arrangement, as further described elsewhere in this report, neither the Commission nor the agency contractor would exercise monopoly power over agency data.

(8) **Oversight.** The Commission's activities in planning and developing the ATFI project have received coordinating direction from, _inter alia_, the Congress, General Services Administration (GSA), Office of Management and Budget (OMB), the Office of Information and Regulatory Affairs (OIRA) within OMB, and the General Accounting Office (GAO).

(9) Cost Benefit analysis. The ATFI electronic tariff filing system will reduce the paperwork burden on filing parties (carriers and conferences) and the cost burdens on both regulated entities and the Government.

In order to obtain procurement authority from GSA, the FMC certified that a cost benefit analysis was performed and considered by the Commission. For budgetary requirements, the "Benefit Cost Analysis" was developed by a private-sector contractor and submitted to OMB. OMB advised the Commission that the study was "procurement sensitive" because its release to the public at this stage of the procurement could artificially peg the proposed prices submitted in response to the RFP. This means that the study will not be public until at least the best-and-final-offer procurement stage, when a supplemental cost benefit analysis will be conducted.

The disclosure of just the benefit data could also indirectly reveal cost estimates because the study calculated the extent to which the public and private benefits derived from the system will exceed the public and private costs.

The Benefit Cost Analysis was made before development of the draft RFP. More meaningful cost estimates must depend on the content of proposals, the contract price, and the resolution of the issues which are subject to this Notice of Inquiry proceeding.

(10) Security features. The ATFI system will properly safeguard sensitive material. It is not contemplated that the system will contain any identifiable information on individuals. Access to sensitive service contract data and pre-effective tariff filings will be appropriately limited by security coding.

(11) Compatibility. The new system is designed to be readily compatible with existing computer systems through connectibility.

(12) Records management. The FMC is incorporating records management and archival considerations in the design, development, and implementation of the system, in accordance with the Federal Records Act (44 U.S.C., Chapters 29, 31, and 33).

(13) Strategy and controls. With ATFI, the Commission has established a multiyear strategy for meeting program and mission needs. The draft RFP reflects budget constraints and the phasing of the system will form the bases for future budget requests. The draft RFP also documents the requirements of the system and provides for its periodic review over the full term of the contract.

(d) Dissemination and Access to Information

The proposed ATFI function which most closely resembles "dissemination" is the availability upon request of the unprocessed, full data base tapes to potentially numerous members of the public. This feature was originally intended primarily for third party vendors but, because the raw tariff data contained in the data base is public, the Commission must also make these tapes available to all persons on equal terms and conditions.

Rather than dissemination, however, all electronic retrieval features of the proposed system provide public access to government information, consistent with the Freedom of Information Act. A-130, § 8.a.(6).

Comments in this proceeding which cite A-130 do not make reference to the essential distinction between "dissemination" and allowing access, nor do they challenge the function of furnishing the data base tapes.

The term "dissemination of information" refers to the function of distributing government information to the public, whether through printed documents or electronic or other media. The term does not include responding to requests for "access to information." A-130, § 6.g. Appendix IV to A-130 further refines this term:

> "'Dissemination,' in the Circular's usage, refers to the function of distributing government information; dissemination connotes an active outreach by a government agency. Dissemination refers to those situations in which the government provides the public with information without the public having to come and ask for it."

One example of a legally-required dissemination would be where a statute provides that ". . . the President or head of an agency shall make reports to the Congress on given subjects." Appendix IV to A-130.

On the other hand, the term "access to information" refers to the function of providing to members of the public, upon their request, the government information to which they are entitled under law. A-130. § 6.f. Appendix IV states:

> "Access refers to those situations in which the government agency's role is passive; access is what the government's responsibilities are when the public comes to the government and asks for information the government has and the public is entitled to."

Appendix IV to A-130 continues:

> "The distinction between access and dissemination is posed in order to elaborate the responsibilities of Federal agencies for providing information to the public. Two fundamentally different situations exist: one in which the public goes to the agency to ask for information the agency holds and may or may not have disseminated; and one in which the agency chooses to take the information it holds to the public. In the first instance -- access -- Congress has provided specific statutory policy in the Freedom of Information Act (FOIA) and in the Privacy Act. These laws and policies concerning access to government information are explicit, well known, and now so widely accepted in practice by Federal agencies as not to require policy elaboration in this Circular. Agencies should know that, if members of the public ask for information subject to FOIA or the Privacy Act, the agencies should normally provide the information forthwith, because the public has a formal legal process for forcing the agencies to yield the information."

Appendix IV to A-130 indicates that tariffs are subject to access upon request under provisions of agency statutes or the Freedom of Information Act:

> "Similarly, the fact that an agency has created or collected information is not itself a valid reason for creating a program, products, or service to disseminate the information to the public. Agencies create and collect much information, often for purely internal governmental purposes, that is not intended for dissemination, for which there is no public demand, and the dissemination of which would serve no public purpose and would not be cost-justified: e.g., compilations of routine time and attendance records for Federal employees, or publication of the thousands of pages of common carrier tariff filings by regulatory agencies. While such information may be subject to access upon request under provisions of agency statute, the Freedom of Information Act, or the Privacy Act, the agency must demonstrate in each case the need actively to disseminate such information."

How A-130 can group tariffs with time and attendance records is a mystery. The nature of tariffs, and the entire ATFI project, especially the comments in this proceeding, demonstrate conclusively that the tariff information is not created by the agency for purely internal purposes.

However, the Commission is not disseminating, but rather making tariff materials available upon request.

Thus, it is difficult to see how the Commission under A-130 has no legal right to make public information available to the public. If, for some unknown reason, requested information is not disclosed, both the FOIA and the Shipping Acts provide an ample legal basis for lawsuits against the Commission, not commercial firms, to compel access to the information.

To enable it to better carry out its statutory responsibilities of providing access to public tariff data, the Commission has followed the proposed Notice of Policy Guidance on Electronic Collection of Information, August 7, 1987 (52 FR 29454), which provides:

> "[3.g] Where electronically collected records are subject to disclosure under the Freedom of Information Act or are to be made publicly accessible for any other reason, agencies should provide for such access in the design and development of the collection system."

(e) The Feasibility Study

The Comprehensive Study of the Feasibility of an Automated Tariff System, the Final Report to the Commission by a GSA feasibility-study contractor, was delivered on October 28, 1986, after almost a year of work.

In addition to finding that ATFI is technologically and economically feasible, the Study established the basic approach to the system that is being followed in the RFP. This includes the "functionality" as described in the Notice and in Chapter A of this report.

In October, 1986, the cost estimates for ATFI were described as follows:

> "Development costs are estimated to be $3.5 million. Operating costs are estimated to be $82 thousand per month. Total costs, expressed in present value, over a 5-year timeframe, are estimated to be $7.3 million. This cost estimate is relatively conservative. In addition, the actual cost may be lower as a result of the competitive procurement process and as some of the advanced system features may be excluded (e.g., download capability to microcomputers)." Page IV-17.

The feasibility-study contractor warned, however, that "[i]t is difficult to estimate costs for large, complex systems at such an early stage of the development process, so naturally these cost estimates should not be interpreted as being precise."

(f) The ATFI Advisory Committee

The membership of the Commission's ATFI Industry Advisory Committee included carriers, conferences, shippers, freight forwarders, port authorities and tariff service firms, including a representative from the Information Industry Association. In order to serve on the Committee, members signed waivers of compensation and the right to bid on the project.

Firms and associations commenting in this proceeding, who were also on the Advisory Committee, are: USECA, Sea-Land, the spokesman for PCC, and IIA.

The ATFI Advisory Committee met three times in 1986 to discuss the Feasibility Study. On February 9, 1987, the Interim Report of the ATFI Advisory Committee was submitted to the Commission. The Interim Report indicated a draft of it had previously been sent to the Committee members for review, comment and approval and that the report included their actions and comments, where applicable. The Interim Report also noted that ". . . the Chairman and Members of the ATFI Advisory Committee have reviewed and approved the content" of the report. The positions of the Interim Report follow:

> "(1) Tariff automation is feasible and the Commission should proceed with, at least, the next phase of the project.
>
> "(2) The Commission should consider certain models and/or alternative approaches.
>
> "(3) The system should provide for some sort of standardization in formatting.
>
> "(4) Cost-benefit analyses should be prepared for both the Commission and the Industry.
>
> "(5) Filers of tariff data should be required to pay only minimal user fees, if any at all, for filing and for retrieving their own data. The data should be made readily available to all users at reasonable user fees.
>
> "(6) The Commission should retain a system of hard copy filing for only those entities that require it for economical reasons. The Commission should consider a system whereby the Commission, itself, or its contractor, transfers hard copy tariff material to the electronic data base."

Most of the functionality of the system was developed in the feasibility study, considered by the Advisory Committee, and incorporated in the draft RFP. This draft RFP for a competitive procurement was sent to members of the Advisory Committee and potential bidders for their comments and questions, which will be considered at the presolicitation conference. Based on the advice of the General Accounting Office, the Commission chose this approach, rather than have the Advisory

Committee, alone, meet and comment on the draft RFP. A contract for the system can be awarded in the Summer of 1988, if offers are received which are cost-competitive and can satisfy Commission requirements.

Alternative approaches were considered in the Feasibility Study and in the Benefit Cost Analysis. Further alternatives, including the option to relinquish remote retrieval to commercial firms, will be considered herein, during the procurement process, and in the prototype phase.

While the Advisory Committee recommended that no standardized formatting be required in the early implementation of the system, it indicated that the system be adaptable to incorporate this feature later, when feasible. This is being planned.

The Benefit Cost Analysis submitted to OMB in October, 1987, analyzes the costs to both the government and the industry of the proposed system, to the extent possible and without knowing a final contract price.

Other Advisory Committee recommendations are discussed elsewhere in this report.

2. Functionality

The specifics of the proposed functionality of the ATFI system, as reflected in the Notice and comments, are discussed in the following sections. The topics correspond to the sections in Chapter A of this report.

(a) Basic System

The TDCC has now developed EDI standards for the transmission of tariff data for the ocean transportation industry. These are included in the RFP for the programming of the ATFI software and should facilitate the contractor's design and implementation of the system. The data-element concept is the best approach for ATFI because it will not only allow amendment and retrieval on an item basis, but also improve the speed and accuracy of filing.

While primarily a data base system, the Commission also intends to address the problem of page formatting of the Tariff Line Items when it is necessary to print a tariff in paper format for countries which do not have adequate computer capability. Page formatting will also be necessary for the official certification of tariff materials to courts. This will be done during the prototype phase.

(b) Standardized Coding

The TDCC EDI standards provide for individualized coding by filer of such items as commodities and geographic locations. When standardized coding becomes feasible, the system will be able to incorporate this function.

(c) Implementation - Exemptions

The Commission is pleased that carriers and conferences are volunteering to participate in the prototype phase where many of the system's working details will be resolved.

As mentioned in the Notice, implementation will be in phases, depending on the difficulties encountered. Exemptions will be addressed on both an individual and category basis.

At the same time, however, it is desirable to have as much of the industry's tariffs in the electronic system as soon as possible. The Commission encourages filers not having ADP capability to utilize commercial firms for that purpose. Then, as now, the Commission will provide the names of all tariff services to each filer with a specialized problem.

The electronic system will naturally require electronic equipment which will be relatively inexpensive, e.g., an off-the-shelf microcomputer, modem and printer. Training, developed by the Contractor in accordance with Commission specifications, will be available to assist firms on equipment and procedural questions.

(d) Compatibility-Security

The ATFI RFP and eventual contract will require the contractor to ensure compatibility with existing equipment and systems, to the extent possible. This will be done primarily through "connectibility," as mentioned in the Notice.

Security features are also a major design subject of the RFP to be implemented and tested during the prototype phase.

(e) Filing - Edit Checks

As mentioned in the comments, the Notice is not clear about "batch filing." This was unintentional and this feature will be included in the new system. "Interactive filing" will also be provided for. Both types of filing will be by modem directly from the filer to the system, for which ten modem ports are specified in the draft RFP. The filer can be a carrier or conference, or a tariff service acting as tariff-filing agent for the carrier or conference.

Batch filing will be ideal for the user with frequent and voluminous tariff changes. The software provided will allow the filer to process its tariff material before transmitting it to the ATFI system.

With interactive filing, special software is not needed. The filer needs only a terminal and modem with which to access its own tariff on the ATFI system for occasional changes. This type of filing is also intended for the small operator who might be inexperienced in computer operations or tariff regulations. The interactive prompts will lead the filer's computer operator through all the necessary steps.

Automatic edit checks will be applied to both types of filing. During interactive filing, for example, a rate increase on less than 30-days notice would not be accepted and the filer could change the date on-screen. For batch filing, such an edit check would be built into the software that is made available by the Commission to the filer, and the 30-day-effective-date problem would be resolved before transmission of the tariff begins.

Other types of "edit checks" will continue to be made by tariff analysts to check such things as ambiguities and conflicts with other tariff items.

Edit checks are not solely for the internal benefit of the Commission. If shippers and carriers did not use rates in their daily business activities, it might be feasible to allow the tariff filer to assume the risk of being assessed the statutory civil penalty for tariff form and content violations. To enforce its regulations, the Commission could theoretically rely upon reports of violations long after they occurred.

The fact is, however, that both carriers and shippers need accurate rate information as soon as possible in order to effectively do business. The current paper system invites tariff discrepancies that cause confusion in the industry and often result in cases that have to be adjudicated.

In fiscal year 1987, there were about 9,000 rejections of tariff materials filed. Although approximately 750,000 pages were filed during the fiscal year, a few entire tariffs were rejected. Commercial firms filing on behalf of carrier clients also have some rejections, even in cases where they receive the tariff electronically and convert it into paper for filing at the Commission.

Many rejections are due to date discrepancies, such as a retroactive effective date, or an increase on less than 30-days notice. While some of these rejections may have been due to administrative error, many of these mistakes are due to delay in filing caused by the current paper system.

Because rate reductions may be effective upon filing, the carrier will usually use these rates immediately. Frequently, the rate is filed to accommodate the urgent needs of a particular shipper. When the tariff page is filed, the filer will often submit an extra copy of the page to be stamped with a receipt date to provide the carrier with evidence of filing and when it can use the rate. Moreover, an extra copy is made available to commercial tariff services.

Then, perhaps the same day, a rate might be rejected because it does not comply with statutory requirements and the filer is immediately notified. In the meantime, the same page, revised again to show a different decreased rate, has been filed. This may, in turn, result in other reasons for rejection of this page as well, all because of the original mistake. Such derivative causes for rejection include "carrying forward rejected material" and improper revised-page numbers.

ATFI's edit checks will reduce original errors and, because the item, not the page, will be amended, will almost entirely eliminate "derivative" errors. The data-element approach is indispensable for the electronic edit checks and will substantially facilitate the search by tariff specialists for other rejectable materials.

(f) Availability of Unprocessed Data Base

As indicated in the Notice, once rejection problems have been resolved and the tariff is officially on file, a more accurate data base of all tariffs and amendments on file will be made available to third-party vendors and the public. Under FOIA principles, copies of the data may be sold at the marginal cost of reproduction.

The tariff data, downloaded onto tapes, will be in raw and unprocessed form so as not to compete with value-added vendors that should be able to commercially use this feature. As suggested in the comments, the Commission would consider updating the tapes on a weekly basis.

(g) Value-Added Services

The Commission will leave to third-party vendors such value-added services as the capability of searching across different tariffs, a function that the ATFI system will not allow by public access. The Commission now subscribes to RATES®, which is formatted or tagged from FMC official tariff pages for this and other services. RATES and similar market services should be improved by access to the ATFI system, when operational.

The Commission, however, will continue to need processing capability for internal, enforcement purposes and may continue to use value-added services to the extent the new system does not provide such advanced features.

Because there is little, if any, commercial need for certain other features, however, the ATFI system will have to provide them. This includes, for example, maintaining historical tariff information for five years for statutory-penalty purposes, and for up to three years for adjudications of disputes between shipper and carrier. Of course, the Commission can certify the legal and effective tariff rates for these proceedings only from its official files.

Finally on this topic, the Commission may have to ensure that value-added vendors under the new system make provision for certain legal and regulatory features for which there may be little or no commercial need. One such feature would be an electronic "anti-rebate" provision now required in paper tariffs under 46 CFR 580.5(c)(2)(ii).

(h) Retrieval - Public Reference Room

The Commission's Tariff Control Center public reference room now makes available tariff binders to the public and third-party vendors for inspection and copying.

The draft RFP will require the contractor to provide four terminals and two printers for this purpose under the electronic system. The data base accessed by the terminals will be unprocessed and will allow users to "search" only one tariff at a time as is the case under the present paper system.

(i) Remote Retrieval by Modem

Since the electronically collected tariffs are subject to disclosure under the Freedom of Information Act and are to be made publicly accessible under the shipping statutes, the Commission has provided for the required access in the design and development of the system. The terminals in the public reference room electronically provide such access, and the availability of the full data base tapes is an additional means by which the Commission can perform its statutory duties. The major question presented in the Notice is whether the Commission should reconsider providing further access, i.e., through the function which provides remote access to tariffs by modem.

The basic question, however, is whether, under the Freedom of Information Act and the shipping statutes, the Commission can decline to make public tariff information available to certain segments of the public. Can the Commission legally allow the public doing business in the Washington, D.C. area to have on-line access, while everyone else has to submit an FOIA request in writing? If the remote retrieval feature would compete with commercial firms, then why not the public reference room?

The remote retrieval feature merely extends the public reference room concept by allowing remote electronic access to one tariff at a time by any member of the public, wherever situated. Once a user obtains access to the system, the configuration and security controls are the same, both for the public reference room and for remote retrieval. There is no "dissemination;" the service is provided only upon request.

True value-added services should be and will be left to commercial firms. A real value-added feature is the ability to search for commodity rates across several tariffs or up-to-date tracking of all rates of a particular carrier in a certain trade. It is not intended that ATFI will do such things for the public. Providing access to one tariff at a time, however, as the Commission does now, can hardly be said to be a value-added feature, whether performed in the public reference room or over the phone. Because a commercial firm provides a similar service now or wants to do it in the future does not make this basic, statutory duty any less of a governmental function.

Even where, as a general policy, services which the Government should not provide in competition with commercial firms happen to be non-value-added, the Commission cannot completely abdicate this statutory duty under FOIA or the shipping statutes. Absent legislation, commercial firms could not be "certified" or "franchised" to perform such a governmental function.

Electronically, the remote access feature is relatively basic and inexpensive. The draft RFP calls for 25 ports for this purpose and the user will pay for his or her own call. The difference between providing and not providing the remote retrieval function is basically the size of communications equipment and connect-time and storage charges. The difference in training costs to the Government would be negligible because so little training is required.

In the Notice, the Commission indicated that, even if it decided not to provide the remote retrieval feature for the public, filing carriers would still need to access their own tariffs and those of conferences to which they belong. Some comments also challenge these functions.

While tariffs "belong to" the public, once officially filed, they also contain the rates of the filing carrier or conference. The comments suggest that carriers can find out what their own filed rates are without remotely accessing ATFI. True, a filer should know what it filed. Without access to its own tariff, however, it does not immediately know what tariff matter may have been suspended or rejected by the Commission after review by Commission staff. To the extent possible, the ATFI system is designed to resolve such problems before the filed tariff matter goes into the data base. The carrier does not want its competitive tariff information to become public until it is cleared to go into the data base. Thus, only by immediate access to its own tariff data will the carrier know that there is a problem with a particular rate, - - in sufficient time, perhaps, for the rate not to be charged to a shipper.

If the Commission decided to not provide the remote retrieval function and to not allow carriers access to their own tariffs, electronic password features can be developed to allow a carrier to batch file by modem, but not be able to access its own tariff. Not so, however, with interactive filing, which requires access to the item desired to be changed by the casual filer. While some comments suggest that interactive filing could be dispensed with, the Commission believes that this feature will be extremely helpful to the small operators, especially NVOCC's.

The comments do not mention a very important fact. Conference tariffs are filed by conferences, not the carrier members; yet the carrier member is required by law to charge the conference tariff rate. Even though the carrier may have voted for the rate change at a conference meeting, it would not immediately know when the rate was actually filed or became legally effective, unless it had access to the conference tariff.

The arguments against allowing carriers remote access to their own or their conference tariffs lead to the same dilemma as the argument against remote retrieval itself. The carrier on the West Coast could not access its tariffs; but the public and competing carriers in the Washington, D.C., public reference room could.

Commercial firms now provide and will continue to provide services which provide tariff information to the shipping industry and the public. Some of the commenting, shipping-industry firms indicate that such services will satisfy their needs when ATFI becomes operative. Again, the Commission encourages commercial firms to provide tariff services for the carriers, conferences, freight forwarders, terminal operators, and shippers who want them.

On the other hand, some commenters urge the Commission to retain ATFI's remote retrieval feature. The few commercial shippers, represented in the comments, were all in favor of the Commission retaining the function. The Commission has to be and is most concerned about the shipper who is the real customer of tariffs. If shippers want the remote retrieval function, then the Commission should provide it for them.

D. CONCLUSION

The Notice of Inquiry on Tariff Automation was published in the Federal Register on December 22, 1987 (52 FR 48504). In this outreach effort, the Commission provided opportunity for comment by anyone whose business operation may be affected by the basic functionality of the FMC's Automated Tariff Filing and Information System (ATFI), as described in the Notice, so that the final Request for Proposals can set forth the necessary specifications for the best possible system. Nineteen comments were submitted by representatives from Government, the Congress, carriers, conferences, shippers, freight forwarders, the information industry and associations.

Based on the comments submitted, the Commission has reconsidered how ATFI may affect industry and the public. As further explained in this report, the Commission has decided to continue with the basic functionality of ATFI as described in the Notice. This includes all originally planned methods of providing access to tariff data, such as the availability of the full data base tapes, and on-line access to the data base, both remotely by modem, as well as in the public reference room. The specifications for the system are contained in a draft Request for Proposals which were submitted to potential offerors beginning on March 18, 1988.

The Commission has decided to provide remote retrieval of tariffs by modem, given the policies underlying the Freedom of Information Act and the shipping statutes, and the estimated, relatively low cost of providing that service. As described in the Notice, members of the general public using this feature would be able to perform only relatively rudimentary retrievals, and essentially no analysis of the data. This means retrieval of only one tariff at a time, in its full format. To retrieve a tariff, the public user would have to specify the specific tariff of a particular carrier that is desired; the public user would not be able to search by keys, e.g., by route or commodity.

In making this decision, the Commission was also impressed by the fact that the few commercial shippers represented in the comments all urged the Commission to retain this function. Shippers are the primary users of tariff data and are the major beneficiaries of the tariff laws.

Otherwise, some commenters indicated that commercial tariff services would meet their needs. The Commission encourages the continuation of such "third-party vendors" and the use of their services by those that desire them.

Throughout its development and eventual operation, the Commission continues to invite comments on ATFI.

By the Commission.

Joseph C. Polking

Joseph C. Polking
Secretary

"B"

ATTACHMENT TO QUESTION NO. 5
(JONES QUESTIONS)

FEDERAL MARITIME COMMISSION

AUTOMATED TARIFF FILING AND INFORMATION ADVISORY COMMITTEE [ATFI]

Summary of Minutes of Meeting
Held in Hearing Room No. 1 of the Federal Maritime Commission, at
1100 L Street, N.W., Washington, D.C., on

November 19, 1986

- - - - -

MEMBERS OF THE ADVISORY COMMITTEE PRESENT *

[From the Federal Maritime Commission]:

John Robert Ewers, FMC, Executive Secretary of ATFI.

* (Absent: Commissioner Edward J. Philbin, Chairman, ATFI Advisory Committee, who designated Vice Chairman James J. Carey to preside at the meeting.)

[Representing Freight Forwarders]:
(Position at pp. 16-19)

Stuart Stone, National Customs and Forwarders Association of America, Inc.

Frank Dausz, George S. Bush & Co., Inc.

[Representing Non-Vessel-Operating Common Carriers (NVOCCs)]:
(Position at pp. 20-21)

W.E. Reinke, President, Zephyr Container Line.

* (Absent: Hellmuth M. Dieterle, Vice President, Harper Robinson & Co.)

[Representing Port Interests]:
(Position at p. 22)

Robert Leighton, Virginia Port Authority (Appointed in May, 1986 to succeed J. Stanley Payne).

Thomas J. Tomasco, Manager, Transportation and Regulatory Affairs, Philadelphia Port Corporation.

* (Absent: Roger L. Peters, Traffic Manager, Port of San Francisco and Chairman, Tariff and Practices Committee, California Association of Port Authorities.)

MEMBERS OF THE ADVISORY COMMITTEE PRESENT * (Contd.)

[Representing Exporters and Importers]:
(Position at p. 23)

John R. Berkery, American Association of Exporters and Importers.

Gerald M. Hanson, Materials and Logistics Department, E.I. DuPont De Nemours and Company.

* (Absent: Thomas R. Dirmyer, Manager, International Logistics, B.F. Goodrich Company.)

[Representing Information Service Firms]:
(Position at pp. 24-26)

Douglas C. Tucker, President, Tariff Resources, Inc.

J.W. Sullivan, Vice President, Distribution Publications, Inc.

David Peyton, Director, Government Relations, Information Industry Association.

[Representing Vessel Operating Common Carriers]:
(Position at pp. 27-28)

V.P. Staunton, Staff Vice President, Regulatory Services, Sea-Land Corporation.

D.A. Grandt, Manager, Pricing Services, American President Lines (Appointed in May, 1986 to succeed William Sink).

Preben Hein, sitting in for Robert L. Cerrato, Manager, Customer Service, U.S.A., Moller Steamship Co., Inc.

[Representing Steamship Conferences]:
(Position at pp. 29-30)

Harvey Flitter, U.S. European Carrier Associations.

Linda DiSabatino, sitting in for John J. Powers, Executive Administrator, Inter-American Freight Conference.

Thomas J. Conroy, Chairman, U.S. Atlantic and Gulf/Australia-New Zealand Conference.)

OTHERS PRESENT

[From FMC]

Vice Chairman James J. Carey [Presiding for Commissioner Philbin].
E.J. (Wake) Wakham, Assistant to Commissioner Philbin.
John M. Binetti, Office of the General Counsel.
James A. Warner, Bureau of Tariffs, ATFI Project Manager.
Carol A. Barling, Secretary to Commissioner Philbin.
Edward Patrick Walsh, Director, Bureau of Investigations.
Robert G. Drew, Director, Bureau of Tariffs.
Robert A. Ellsworth, Director, Bureau of Economic Analysis.
Edward J. Manear, Director, Office of Special Studies.
Pat N. Gorski, Office of Special Studies.
Mary M. McPherson, Bureau of Administration.
James F. Ryan, Office of Administrative Services.

[Independent Consultant to FMC]:

Ray E. Chapman, George Mason University.

[Representing ATFI Feasibility Study Contractor, American Management Systems, Inc. ("AMS")]:

David J. Alexander, Senior Principal.

[In the Public and Press Section]:

Peter Cass, Transax/RATES [Journal of Commerce], (Falls Church, VA).
Tyrone Cefalu, American Matrix Corp. (Elk Grove Village, IL).
Robert J. Crowley, G. S. A., (Washington, DC).
J. Erickson, Fleet and Corbin, (Elizabeth, NJ).
Ron Gottschall, Trans Pacific Westbound Rate Agreement, (San Francisco, CA)
Ralph Hudson, American Matrix Corp., (Elk Grove Village, IL).
Robert C. Hudson, American Matrix, (San Francisco, CA).
George P. Johnston, Ocean Tariff Services, Inc.(Mt. Freedom, NJ).
Frances C. MacDonald, APL, (Oakland, CA).
Carol Mahoney, Federal Register Office, (Washington, DC).
Gerard H. Miller, (Crisfield, MD).
Doug Mitchell, Pacific Coast Tariff Bureau, (Washington, DC).
Steve Penyak, A.A. & Co., (Washington, DC).
Bob Reges, (Washington, DC).
Scott Shotto, STARCOM, (Washington, DC).
R.E. Starck, STARCOM, (Pittsburgh, PA).
Roy Sumner, Sumner Tariff Services, (Washington, DC).
Allen Wastler, Traffic World, (Washington, DC).
Joe Wathen, Interstate Commerce Commission, (Washington, DC).

EXHIBITS

[Distributed to ATFI Members Before the Meeting]:

A FEDERAL REGISTER Notice (Oct. 21, 1986) of ATFI Meeting and List of Advisory Committee Members (on reverse side).

B "Comprehensive Study of the Feasibility of an Automated Tariff System - - Final Report" Prepared for Federal Maritime Commission by American Management Systems, Inc. [Task Request W6500-01S; Contract Number GS-00K-85AFD2777.]

[Distributed at the Meeting]:

C Deliverables 6 and 7, "Evaluation of Alternative Concepts" (August 20, 1986) and "Analysis of Business and Service Delivery Alternatives" (September 12, 1986), respectively, prepared by the Contractor, American Management Systems (AMS), for the Federal Maritime Commission.

[Post-Meeting Documents]:

D December 1, 1986 Letter from David Peyton of the Information Industry Association to John Robert Ewers, Executive Secretary of ATFI [4 pages + 5-page "Exhibit 1"].

E December 17, 1986 Letter [3 pages] from John Robert Ewers, Executive Secretary of ATFI, to David Peyton, acknowledging receipt of **EXHIBIT D.**

F December 9, 1986 Letter [one page] from David J. Alexander of American Management Systems, Inc., to James A. Warner, FMC, ATFI Project Manager, commenting on issues raised by Mr. Peyton in **EXHIBIT D.**

G December 26, 1986 Letter from David Peyton of the Information Industry Association to John Robert Ewers, Executive Secretary of ATFI [2 pages].

VICE CHAIRMAN JAMES J. CAREY

Presiding for **COMMISSIONER EDWARD J. PHILBIN**, Chairman of ATFI, convened the third series of ATFI meetings at 10:0 a.m. on June 19, 1986, and introduced:

JOHN ROBERT EWERS,

Executive Secretary of ATFI, who discussed administrative details, including last minute changes to the seating chart of Committee Members present.

VICE CHAIRMAN CAREY addressed the Committee:

> "Our mission for the morning is to review the presentation by AMS of their final report to the Commission on the feasibility study for automated tariff filing.
>
> "And I think there are a couple of essentials that everyone understands. First of all, we need and value the advice of those of you in the industry on not only this final report, but what direction you think we need to go, once the report is sent up to the Commission.
>
> "It would be my best estimate that after today, giving you some time if you want to supply written comments - - that type of thing - - that we should be able to have this in form to be up to the Commission for review and decision on what to do about a mid-December time frame.
>
> "And I'm shooting for that, quite frankly, because that would put us on schedule as far as what we have projected.
>
> "Obviously, if the Commission's decision is not to go forward, then there is no further time schedule.
>
> "If the decision is to go forward, then there still remains, as you have gathered by the AMS report, a great deal to be done.
>
> "But we don't want to do whatever it is we're going to do in a vacuum. And therefore it's very important that we understand from the industry that what AMS has come up with is not a square peg that we're going to try to put out into the industry into a round hole or vice versa.
>
> "So, we thank you for being here. And know that your input is, I think, vital and critical to the ultimate direction the Commission takes.

[**VICE CHAIRMAN CAREY**, contd.]

> "Chairman Hickey, at our first meeting, made the comment that the last major accomplishment of the Advisory Committee will be to evaluate and comment on any implementation plan which may be formulated after completion of the ATFI feasibility study.
>
> "As sportscasters might phrase it, the best game plan in the world is useless if not properly executed.
>
> "So, we need to know from you how good our game plan is and at the conclusion of the afternoon discussions, I think it's essential that each of your groups have a relatively crystallized position, and that each of us understands and appreciates what it is that one another feels should be done on the tariff filing project.
>
> "So, with that, I wish all of you good luck in your deliberations.
>
> "And I would now turn it over to Dave Alexander from AMS to make the presentation on their final report to the Commission."

DAVID J. ALEXANDER

Senior Principal of American Management Systems, Inc. (AMS), then began summarizing and highlighting AMS' final report to the Commission (**EXHIBIT B**) and answering questions from the Committee. He clarified that it is the policy of the U.S. Government that the Government should not be in the business of providing value-added, sophisticated analyses of data to the public and that, to the extent **EXHIBIT B** referred to the providing of such analyses as a "requirement," it was not a statutory or regulatory requirement, but rather a perceived commercial need, like "cruises to England."

On the subject of bulk retrieval, **MR. ALEXANDER** assured the Committee that this service would be made available to everyone, including both third-party vendors and other tariff users, such as the tariff-filers, themselves. The following discussion then ensued on the topic of how long tariff material would be held in suspense before it was added to the data-base which would be made available to the public:

J.W. SULLIVAN [Vice President, Distribution-Publications, Inc]: You're talking about suspense on a short period of time. What is a short of period of time it's held in suspense? Is that two hours or three days?

MR. ALEXANDER: The short answer is: it would depend on the decisions by the Commission. The exact issue of when something goes out of suspense and into the live data base is partly tied up in the issue of when is a filing actually an accepted tariff. We're showing the capability here, with the thought that FMC might want to make a distinction.

JAMES A. WARNER [ATFI Project Manager at FMC]: The problem is: how much decision making authority are you going to give a machine? That is, is the machine going to make the decision to reject the tariff if it's improper? And if the machine is going to make that rejection, what types of conformity checks which the filing will have failed are we going to let go through?

Certainly, I don't think the Commission wants the machine to make a decision on a syntactical error or something perhaps being indefinite or unclear in its applications.

However, on the other side of that coin is a tariff filing that will come in retroactively. There's no reason why we couldn't delegate that kind of a rejection to a machine.

So, I think the answer is: we're going to split the sheet. We're going to split the sheet by permitting the nonsubstantive conformity checks to be automatically done by the machine. And after it passes those checks, then it is an instantaneous function to go in to a data base.

Now, the suspense file, however, might be something that we have internally keyed the machine to look for. For instance, a container rule, or a particular type of terminal charge that the Commission might be, at that point, very interested in. And we might tell the machine to grab any filing that has those buzz words in it, and put that in a suspense file for a human to look at to make a decision on its acceptability in terms of meeting the Commission's criteria for acceptance before it's released to the data base.

In whatever environment or scenario that this comes about in, I don't see that file being more than a day old. Because I think, if it's more than a day old, we're not fulfilling our responsibilities to make the information public.

MR. ALEXANDER commented that the estimated cost of the proposed system was very conservative and referred to "Deliverable 6" [**EXHIBIT C**]. He also said:

> "Well, we definitely did not include - - we very specifically discussed the issue of: should we include in the cost estimate, conversion of what exists now? And the answer was 'no'."

Various members of the Committee requested that "Deliverables 6 and 7" be made available to them [**EXHIBIT C**]. Copies of these papers were distributed to most Committee members during the lunch break.

VICE CHAIRMAN CAREY, in response to questions from the Committee, commented again on the time frame for the next phase of the project:

> "So, I am saying - - general time frame - - I would hope the Commission would take a look at this by mid to the third week in December, keeping in mind we have the holidays there.
>
> "Presuming that the Commission would be able to make a decision in one sitting, and I am not certain that that's the case because it is a complex issue, - - but if they could - -, then I see, very clearly, two alternates. One being to proceed in one manner or another, be it further study, cost benefit analysis, or to go ahead with the recommendations. There is obviously another option, which is to go no further, based on cost or whatever the Commission might consider as rationale not to go further.
>
> "Those are the two options. And that's the time frame that I would see.
>
> "If we choose to move forward in some fashion, then let me have AMS address that, because I think they have worked that time frame to a degree. And then perhaps Jim Warner, who is our project manager, could address it further, because he would be the one in charge of this."

MR. ALEXANDER (answering) stated:

> "Well, I would think that,- - given the nature of the situation, given the complexity of the procurement, - - I would think it probably would take about six months, even working at a relatively rapid pace, to get the procurement in place and out on the street, - - you know, - - agreed to, and advertised, and out there. It might take, then, several more months to make a final award of some sort.
>
> "Keep in mind that, as part of the procurement planning coming up, a more detailed design would be necessary, because the detailed design would be made part of the statement of work in any procurement.
>
> "So, we're basically looking, I would think, at about six to eight months before a final award would be made, assuming no protests, which, in some cases, can be difficult to prevent. At that point, the question is, do we want to have a prototype or not, or do we want to go straight to a full-blown system?

[**MR. ALEXANDER**, Contd.]

> "If you wanted to go to a prototype, it might take upwards of three months to get a decent prototype in place. And you might want to run the prototype for several months after that, or perhaps even six months. Depending on whether you wanted to do more full-blown implementation in parallel with the prototype, or wait until after the prototype is done, we might be looking at, perhaps, another three to four months after that to get the full-blown system in place. So, that's sort of generally the time frame.
>
> "Again, its a little bit hard to project, again, in part, because it depends on what the response is to the procurement."

VICE CHAIRMAN CAREY:

> "Let me add, perhaps, one more point to that. And that is that, if the decision were made to move forward, as the Chairman of this Committee, I'd be very hesitant to move forward without input from you as the Advisory Committee at certain key points in time."

In the discussion on a prototype operation, several members of the Committee volunteered to participate.

VICE CHAIRMAN CAREY, at this point, turned over the chair to **MR. WARNER**, who called upon several Committee members for comment and then added:

> "The concept of the prototype that we have in mind would involve people sitting on this Committee, primarily because we want to make the mistakes in our own family before we make the mistakes out there involving people that don't understand the background.
>
> "The best method to phase in would have to be determined at approximately the time that we see how well the prototype does. A for-instance could be that, after a given day, all of the incoming filing material would be only electronic. That is to say, in a sense, you would flip a switch and take nothing further in paper.
>
> "Now, all the historical documents would obviously be in paper.
>
> "But there are probably two hundred for-instances of the best way to do that. And we're not prepared to hip shot an answer. Because, first of all, the biggest impact would be on the industry, not on the Commission, and we would certainly want to know exactly the optimum approach.

[**MR. WARNER**, Contd.]

> "And I think Mr. Chapman, on the other end of this bench, would strongly argue that you don't flip switches in automated systems because you lose your paper trail and you have tremendous continuity problems. And I believe I've heard Ray argue that they should run in parallel.
>
> "Is that a fair statement, Ray?"

RAY E. CHAPMAN [Independent Consultant to FMC]:

> "I think they should run in parallel for a certain amount of time. Not probably less than a year, counting the prototype development, and testing, and operation, and then the phase-in.
>
> "So, you've really got two systems operating simultaneously. You've got the continuation of the paper system and you've got another system.
>
> "That would be a reasonable approach."

After further discussion, **MR. ALEXANDER** stated:

> "The Federal ADP policy is very clear that, in many cases, agencies simply would have a very difficult time quantifying costwise what some of the benefits might be.
>
> "Let me give you, for example: how would you cost out the benefit to the agency and the benefit to the general public, were the FMC to do a ten percent better job, let's say, in ferreting out the bad actors in the industry because the system allows better enforcement? The Federal guidance recognizes this extreme difficulty on the Government side of a cost benefit equation.
>
> "My assumption is, FMC is going to have to make its own balancing based, in a fair number of cases, on very noneconomically definable criteria. That is, what is the value to us of better enforcement? What is the value to us of being able to hire more professionals and fewer clerks?
>
> "You know, the differences in salary costs and so forth between a clerk and a professional, and some efficiencies that might be totally overshadowed by the benefit to the public, for example, to getting rates more quickly, which is nonquantifiable in most cases, as well as the efficiencies in better enforcement.
>
> "Now, on the flip side, I would think - - I would suggest that were I in your business -- one question I might ask myself is: what do I reasonably think that the charge might be for filing? And that's hardly, I think, what Commissioner Carey and what Jim Warner are asking some advice on.

[**MR. ALEXANDER**, Contd.]

> "What would be a reasonable charge for filing? And then I think you would have to ask yourselves, if there's a reasonable cost for filing and a reasonable cost for retrieval, what types of benefits would accrue to my company? You're in the private sector just like I am. You're out there to make a reasonable profit.
>
> "But I would venture to guess that it would be relatively difficult for you to quantify: where would my business go if I were able to more quickly quote rates? Part of the equation being: would more people enter this industry because it would be an easier thing to do? You know, this is, I would think, a very, very difficult issue to pin down in terms of dollars and cents.
>
> "We're certainly not so, shall I say, you know, frightened of the issue of doing a cost benefit analysis. I would just like to point out that I don't think you're going to end up with the decision being made totally on the basis of dollars and cents. And, again, that is reflected in a long history of how these things go with large Government computer systems."

After further discussion of costs and cost-benefit analyses, **MR. WARNER** commented:

> "That's really not the question that we're having put before you at this time. Before we could ever nail down the seven million cost, we would have to give the specifications against which to bid. And if the Commission moved forward, the next step is to build those specifications. And it is not until the response to that RFP is received and analyzed do we, in fact, know what the real-world cost will be.
>
> "What AMS was tasked to do was come up with a commercial cost as though we were buying it today, which obviously we are not, so that the Commission can assess its feasibility to support a program that could potentially have that cost in it. And I think they have done that.
>
> "Obviously, the existing third party vendors, who were, in some cases, asked to participate in this organization, and who very pointedly declined our request, did so very properly in anticipating the possibility that they want to bid that contract and did not want to be in a position where being on the Advisory Committee would disqualify them from bidding.
>
> "So, I think we can fairly assume that the existing third party vendors will be primary bidders, and will be looking for an opportunity to acquire additional customers to defray some of their costs."

On the subject of costs, **THOMAS J. TOMASCO** [Philadelphia Port Corporation] stated:

> ". . . I feel that the Commission has to take into consideration the fact that you do have very small organizations, such as some of the South Atlantic ports, or even the Gulf ports, that file anywhere from two to five pages with the Commission. And to require them to become part of this massive automated system, there's no cost benefit to them. And that a dual system must be maintained for these smaller organizations.
>
> "That is a consideration that I feel the entire port industry will be looking at during this entire process. And I do wish that the Commission will look into this matter of maintaining this dual system, if only for the smaller organizations. They cannot afford to become involved."

After further discussion, **MR. WARNER** invited the public to participate in the proceeding by addressing the Committee on the record. Two people spoke, as follows:

MR. GOTTSCHALL:

> "I'm Ron Gottschall, Trans Pacific Westbound Rate Agreement, 351 California Street, San Francisco, California 94104.
>
> "The TWRA, this year, will publish somewhere around seventy-five thousand tariff pages, of which we'll file about sixty thousand with the Federal Maritime Commission. And, so, as such, we probably represent a piece of your problem.
>
> "The first thing I'd like to say is that, frankly, we applaud the idea of going to some form of automation. But, equally, like the North Atlantic Conferences, we're already partially automated.
>
> "I think where this is heading, if I gather what has been said correctly, is that we're heading in a direction that gives us a lot more flexibility on how we deal with our tariff.
>
> "And I'd like to make one point. We get all hung up on a 'tariff' as being something you file with the Federal Maritime Commission. The fact is, the tariff is our price list. The fact that we file it with the Federal Maritime Commission is incidental. In fact, we don't file all of our rates with the Federal Maritime Commission. As we know, some are exempt, and they're not filed.
>
> "But we have a peculiar situation in which the agency dictates the format in which we must file. And the carriers, through the conferences, dictate the rates that go in that tariff.

[MR. GOTTSCHALL, Contd.]

"Unfortunately, because it's geared to the hard copy in today's telecommunications age, we're having to publish things on pages, when a data base would be a far more effective way to do it.

"I can see, off hand, that free from the confines of a physical tariff page that the cost of producing a tariff would be substantially less. Because now we're dealing with individual records, and we're not dealing with things that have to be done through word processors.

"We're ready to go this way.

"We do have some reservations, however. And those reservations deal primarily with who owns this data base. I mean, let's face it, you know, there's a lot of effort that goes into producing all of those rates.

"Some will call it an intellectual effort. I'm not sure that's a good term.

"But the question is, why should it go in gratis into the Commission or we be charged to file it with the Commission? And I -- let me -- I just want -- I have no view on that particular point.

"But once being filed, why should it be made available for third parties to resell?

"Obviously, some of the third parties who may well bid on this thing may bid on it entirely with the idea that they're going to be able to resell the product. And if that's the case and they're unsuccessful in reselling the product, then the question is, will they be able to fulfill their commitments?

"I'm not too sure that that's a wise idea. And, in any event, we still have reservations, in our group, as to who actually owns the contents of our tariffs.

"We file with the Commission. But that portion that we file with the Commission - - because the law says we have to - - that was intended to be open to the general public who would have access to that. It does not necessarily carry with it a right to resell that information to third parties for commercial resale. And that's an issue that we may have to deal with.

"But, in general, I support the direction you are going. I can see economies. I can see the wave of the future. I can see that by taking out the constraints of the tariff page, maybe we can do something in the future.

"Thank you."

PETER CASS:

"I'm Peter Cass of Transax/Rates Division of the Journal of Commerce, 5111 Leesburg Pike, Falls Church, Virginia 22410.

"I want to comment on, generally, a couple of items.

"I first would like to say that Transax/Rates supports the move by the Federal Maritime Commission and the industry to automate.

"We are one of the third party providers today, and are already interested in the developments to come out of this meeting and the Commission's rulemaking, if there is such, in the future.

"The issue of cost -- and that's what I want to comment on primarily. The seven million dollars in round figures, I can't comment on in terms of its credibility because I haven't seen the numbers.

"But before, I think, there's a decision that's to go forward or not, there's a critical other element of cost that I think the carriers, and more generally, the filers themselves, have to deal with. And that is the issue of the tariff being a marketing document, as Mr. Gottschall just mentioned.

"That it's used as a regulatory document in terms of the transaction that we're viewing in the process is probably less than ten percent of its actual use in the marketplace. And the carriers have developed systems, obviously, to support the marketing and distribution of that information that are very expensive.

"The cost I'm talking about that I think the carriers need to deal with (and Mr. Alexander may want to meet with them privately to explain his assumptions) is that if, in fact, you go to a data base and you go to an electronic filing system, there is one implicit assumption in that all tariff pages will have an absolute graphic standard for everyone.

"Secondly, there may be also the requirement for some standards in terms of definitions that fit in to the graphic standard.

"So, in fact, the transition issue that Mr. Grandt brought up is a very critical one. Because if, in fact, you have to run two systems at one time, you're talking about maintaining the system the carrier has, in which, in many cases, they already have their graphic standard and their definition standard in place, plus operate one for the Federal Maritime Commission.

[MR. CASS, Contd.]

> "So, that transition issue is a very critical one. And my feel is that you are talking about a magnitude of cost two or three times the amount of the seven million dollars in terms of the impact on the carrier industry, itself, or the filing industry.
>
> "And I think that issue has got to be addressed up front with the carriers so that they have some sense of where the FMC may be going to, obviously, answer questions they may have in terms of is there a cost benefit issue.
>
> "But that graphic, implicit, absolute, graphic standard is part of the system. And the carriers should be aware of that in terms of applying that to their own cost-benefit ratio."

At 12:27 p.m., the meeting was recessed for lunch and to give the industry-group spokesmen an opportunity to develop their positions for the record in the afternoon session.

* * * * *

At 3:06 p.m., VICE CHAIRMAN CAREY, presiding, reconvened the meeting and called upon the industry groups to make their presentations. The following responded:

FRANK DAUSZ [George S. Bush & Co., Inc.]:

"Basically, I'm representing my own firm and, to some degree, the thinking of the West Coast freight forwarders and customs brokers.

"We're probably a hundred and ten percent behind the automation idea.

"I think it's inevitable.

"It has to be done. It has to be done soon.

"I think that it's probably likely that tariff filing will be retained, and will be retained probably at least through '89.

"If that's the case, then we would love to have it automated.

"And the issue that we brought forward to this group on trying to clean house as you automate is still very much on our minds.

"We would like to see the Commission take a hard stand on formatting, so that the end result, for us, that is, searching for a bottom line transportation price, will be facilitated.

"And I understand that that's a policy consideration by the Commission.

"But, nonetheless, I think that you owe to the shipper public that they have free and easy access to bottom line transportation costs.

"We can't see that being accomplished unless you mandate some, even remote sort of a standard, not a specific harmonized code, but a standard of some sort, a commodity classification, the way rules are set out, so that relatively simple software could be developed by us, not by you, to do the searches, the analysis, and the rate comparisons.

"That's sort of the bottom line."

STUART STONE [National Customs and Forwarders Association of America, Inc]:

> "Our association of freight forwarders, and I'll also mention customs brokers, because that will tie in later in my presentation, finds that the feasibility study, and I point out feasibility study, performed by AMS has been excellent. And we commend the Federal Maritime Commission on its work.
>
> "We feel that the aspect of automation is one that you really could not do without in view of the budgetary climate of fewer staff or funds, with an increasing amount of tariff filing, and that the task would be insurmountable without it.
>
> "The Association does not feel that monopolistic resale is advisable, nor that tariff user fees for tariff filers would be recommended.
>
> "In a third category, though, subscribers to a downloading by magnetic tape or some other means of tariff data that might be available at the FMC would be a possibility for a user fee, but on a marginal price basis, - - not to recover capital costs or development, but much as someone asked for a copy of a report and Mr. Ewers said that would be five dollars. So, in that same light, we anticipate that, perhaps, user fees priced on a marginal basis could be a possibility.
>
> "Then I went about analyzing who the primary beneficiary of tariff automation is. And I went through three case studies, the first being the FMC, the second being the carriers, and the third being the third party vendors.
>
> "The first case. 'The FMC is the beneficiary,' to me is the clear-cut conclusion.
>
> "The carriers could possibly be a beneficiary. But if they were to be the prime beneficiary, then I could not see the FMC going to Congress for appropriated funds to pay for an automated system.
>
> "Now, I said earlier that I do not feel that the FMC should be in the monopolistic business of selling the tariff information, a proprietary consideration, to others. So, if the carrier were the prime beneficiary of this, and the carrier would be forced to pay something, and I do not see that.
>
> "Nor do I see the third party vendors as being the prime beneficiary. They also could not afford to pay.

[**MR. STONE**, Contd.]

"Now, in the AMS feasibility study, it was very clearly pointed out that there are a lot of internal functions that the FMC needs software and hardware for. And I fully support that. "At the first meeting, we commented or I commented that the FMC should keep its hardware and software requirements as low as possible to increase the odds, if you will, of obtaining funding.

"Now, if we follow along the logic that the FMC is the prime beneficiary, then I would look at some models for either evaluation or emulation.

"In the first meeting, in January, this year, we looked at the Securities Exchange Commission. And I'm not quite sure if that's the proper model.

I would draw your attention to the U.S. Customs Service in its Automated Commercial System, and also the Bureau of the Census.

"Now, I'll point out that both of these permit the large user to do bulk transmission. And it's cost effective to them.

"The Bureau of the Census allows an eight hundred number for filing, so there's no user fee. In fact, they go the opposite direction. Customs does not charge a user fee. Now, there is a user fee, but that's for an unrelated matter. That has to do with more of a duty or just the cost of doing business with Customs. It has nothing to do with automation.

"In the Customs automation service, the benefit to the customs broker, of which we are one, is that you get speedy, very quick filing, and its' advantageous to the broker. So, the National Association has worked very long and hard with Customs service to try to smooth this out and help them accomplish their goal.

"So, if you take away monopolistic resale, and you take away tariff filing user charges to the tariff filer, then what are you left with? I believe you're left with one hundred percent funding from Congress. And, therefore, if you keep it small and simple, that would increase your odds. And if you look at the means that Census and Customs went about, perhaps there might be some guidance there.

"I think, overall, the benefits to the maritime community in automating are clear.

[MR. STONE, Contd.]

"I think one other thing that needs to be done, though, before the Federal Maritime Commission can proceed, and that is cost-benefit analysis. Because, with that, I believe you'll be able to go to Congress and say, like other agencies that you find in parallel situations, we also can empirically state that there will be a savings. "Sometimes it's hard to really have clear-cut winners and losers. But I think that you can show cost effectiveness internally.

"That cost-benefit analysis will be simultaneous, in my opinion, with a sizing exercise. Sizing is where you determine how much hardware and how much software.

"Now, if the world for this automation exercise is the FMC, you only have to look within.

"Now, I would place no restriction on the access to the data by the third party.

"Just as hard copy now is turned by vendors into tariff electronic information, I believe that that will be done in the future. There, at least, should be the provision for that, and that the FMC could make every assistance to support that, much like Census or Customs.

"Finally, and last, but not least, the Forwarders feel that in order to make the third party vendors' software workable, that common coding has to occur in some shape or fashion.

"Minimally, we would urge that it be provided for. That was our statement at the second meeting.

"And we would hope that the third party people would make it easy and, therefore, conducive for all tariff creators to use such a coding system.

"We are not addressing the conflicting problems of burying information or making it easy to find.

"We just feel that, without a common coding system, it would be very difficult to access information; and we feel that the harmonized code, more than likely, will be the easiest and the most appropriate coding scheme for commodities.

"I don't feel that geography or country coding is that big of an issue."

W.E. REINKA [Zephyr Container Line]:

> "Well, we were here to conduct a feasibility study. And, in general terms, in my opinion, does the automatic filing system seem feasible? Yes, it seems feasible; and I'll take it further and say, yes, it, in general terms, it seems desirable.
>
> "However, I think we're still a long way away from the RFP.
>
> "I think before the Commission proceeds with the RFP, maybe come mid-December, it's time to look hard at the cost benefits, even if the disputed figures are now estimated.
>
> "I think, once you plug in a formula to use to determine the cost effectiveness, the numbers can be adjusted higher or lower fairly easily.
>
> "Also, I think, before the RFP -- what I keep getting back to, which bothers me here, is that the Commission must directly face the question of who pays for this now.
>
> "I recommend that the imposition of modest access fees, certainly fees that would pay for computer time, pay for staff time, that sort of thing. But I don't think the access fee, even including the so-called bulk users' fees, are going to pay for the system.
>
> "At the same time, under no circumstances do I believe that filing fees should be allowed.
>
> "First. To be in compliance, we must file. I think a filing fee should not increase that burden.
>
> "Secondly. As representative here of the NVO industry, I think I live and compete in a little bit different world than some of the other members here do. And I think that filing fees would only discourage what is already a monumental enforcement burden. My competition, and the competition of other NVO's who are trying to play by the rules, lots of times is against unfiled rates, unfiled carriers for that matter.
>
> "And if we're going to complicate this further with filing fees, I think that the distance between the people that are trying to play by the rules, who are at a disadvantage, and the people who aren't, is increased.
>
> "So, I would hope that the system wouldn't make it any worse than it is.
>
> "I agree that the Commission itself is the major benefactor of the system and, as such, should be expected to absorb a significant portion of the costs; and I think, before we go on, the Commission should offer publicly a tentative system for financing.

[**MR. REINKE**, Contd.]

"Next. With all due respect to AMS and the Commission, -- and please bear in mind that I haven't looked at these deliverables yet that we just received -- I'm not yet convinced that the Commission still can't use the private industry, meaning what we keep calling the third party vendors, to its advantage.

"It appears, in some instances, that the proposed system that we have here would reinvent the wheel.

"According to Mr. Alexander's estimate this morning on the time frame, when I asked him, we're looking at close to two years, when, remember, we're just a month and a half away here from 1987. In two years we'll be at 1989, and we'll be at the whole tariff system review.

"And I'm wondering if, instead of using the next two years to develop and accept an RFP, experiment with a prototype system, and then develop the formal final system, I wonder if, come mid-December, the Commission might take another look at a cooperative arrangement with third party vendors which would temporarily accomplish the Commission's needs, so that this paper burden upstairs is at least alleviated.

"It would still have, maybe, an experimental system of electronically filing for those who want to go ahead with it. That also takes care of the prototype system. A lot of those bugs would be worked out. It would preserve the interest of the value added parties and also their customers.

"And that would take us up into 1989 when we've got a tariff review coming up anyway. And I suspect that that might be accomplished for less cost and less hassle than the proposed method, which possibly may be junked in a couple of years anyway.

"Regardless of the economy of scale, again, I don't think a lot of people want to go out and buy any kind of equipment that we might only use for three or four months.

"Finally, in terms of the transition or the phase in, I support the option of paper filings, certainly at least until the 1989 system review is complete.

"But I like the idea of incentives that Mr. Stone brought up, pointing out the example of Census, and having incentives for people who wish to electronically file shippers' export declarations. So, I think we could. We could take care of a lot of the bugs and encourage a lot of people to use the automatic system just by putting the incentives in, without anyone being able to accuse us of cutting them out by eliminating the paper."

- ATFI Minutes 11/19/86, Page 21 -

THOMAS J. TOMASCO [Philadelphia Port Corporation]:

> "First of all, we'd like to specify that the Ports support the concept of overall tariff automation.
>
> "We would like to impress upon the Commission that port and terminal tariffs are substantially different from those of carriers and other filers of tariffs, that they are static in terms of amendments, and are basically rule-dominated, so that the number of pages and items in the tariff are much less than anybody else's, basically, in this room, that files.
>
> "And we would like the option to continue to file in hard copy format, basically because of the size of the tariffs, themselves, and the entities that are filing these tariffs, and the complex system that a lot of them have to go through in order to obtain funding to even obtain somebody or bring somebody on to do the work, let alone spend money on the outside.
>
> "We would like the FMC to give consideration also to the ability to obtain bulk transfer of data bases to these private parties or to terminals outside of the third party entities that we've been discussing all day, such as carriers and ports who can go in, if they set up their own systems, and be able to get bulk tariff information.
>
> "Also, we feel that the filing fees that everyone is discussing here today and in the past eighteen months be looked at very closely on the part of the Commission, and looked at in such a way that it be based on the requests for information rather than on the amount of information that is filed with the Commission.
>
> "Because, basically, everybody has to file their tariffs; they have no choice in the matter.
>
> "Now, there may be a time, down the line, where Congress says you don't have to file any more.
>
> "However, there should be no burden on these people who do file.
>
> "It should basically be on the people who want the information.
>
> "And it should be based on the information that they extract from the system.
>
> "That's basically all we have to say."

GERALD M. HANSON [E.I. DuPont De Nemours and Company]:

"As shippers, we see little direct benefit to us in automation as proposed.

"But we do see possible benefits coming in the future if cost-effective, third-party services do grow out of the effort.

"On the other hand, we have very few or limited concerns about the recommendations of the feasibility study and believe the Commission should go forward with automation in its efforts.

"Particularly, I think the effort ought to be directed towards seeking to make filing more cost effective.

"I think that's an area where things could be done and be beneficial to us as receivers of that service.

"Obviously, we have the same reservation that's been mentioned.

"If tariff filing should no longer be required, then the need for this kind of a system disappears.

"And I think that's obviously got to be a part of the judgment call that needs to be made by the Commission.

"But I would certainly vote that we go forward with the effort that you've started and develop the next phases of it, at least next phase anyway."

DAVID PEYTON [Information Industry Association], speaking for the information service firms,

> "We also would like to reiterate our support for the automation effort and for continuing in that direction.
>
> "Picking up, if I may, on the comments I made this morning. And what are the assumptions behind the concept that's been presented in the contractor's report? And what are the implications of it?
>
> "One assertion that seems to have been made, but not quite in so many words, is that the file structure of the existing private services is ill-suited to FMC's needs.
>
> "Another implicit assertion appears to be that some degree of standardized format is going to be implied, with or without commodity classification, with or without geographic classification or codification.
>
> "And, clearly, there's a watershed choice to be made here with regard to whether there's going to be a whole data base being constructed from the ground up, or whether there's going to be some attempts made to enhance, in incremental or other kind of fashion, what's already been built.
>
> "And it's hard to talk to this because we haven't seen deliverables six and seven. And, honestly, I wish we had seen them before today. But we would say that this choice, at a minimum, has not yet been fully defended. Certainly without six and seven it hasn't been fully defended.
>
> "And certainly one alternative to building a new data base from the ground up is to look at building some kind of intelligent front end, the extra advisory system software for edit checking and all of that, some kind of module for office automation features, correspondence tracking, workload management, all those sorts of things, and something to deal with the historical or archival problem. And, again, we need to look at deliverables six and seven.
>
> "But we're not satisfied yet that the full significance of the choice that has been made and hasn't even been portrayed as explicitly as we would like as being a choice, has come out.
>
> "With respect to standardization and costs, it would seem pretty clear that there is going to have to have to be a rulemaking dealing with mandatory electronic filing. It's hard to see how that can be avoided. And there should be proper preparation for that.

[MR. PEYTON, Contd.]

"Certainly the Commission could put something out and see what all the comments are, see who asks for special relief, see who estimates how much it's going to cost.

"But before that rulemaking goes out, there should be a pretty good idea of what the lay of the land is going to be, what the responses are going to be, and some assurance that the benefits can be shown to exceed the costs.

"Certainly that rulemaking will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act. And I assume OMB will review it under a cost-benefit criterion. And if the cost can be shown to be less than the benefits, then it should go forward. And if the benefits cannot be shown to exceed the costs, then OMB should reject it.

"This take us, I think, towards some of the next steps. And, in all honesty, we in the vendor community may not be in the best position to know what some of the implicit costs are going to be. And we're talking here not just about dollar outlays to the Commission, but to all the costs that are going to be imposed on the various filing parties to comply with a system that's going to demand a high degree of standardization, at least much more than we now have.

"It's going to cost millions, and how many millions we don't know. We would suggest that the filing parties organize themselves somehow to start taking a look at what it's going to cost them.

"Filing fees to the Commission or no, what it's going to cost them in terms of their own systems to meet any of, you know, two or three possible levels of rigor that will have to be imposed if what the Commission really thinks needed -- is needed -- is a brand new relational data base and nothing else will do the job.

"For our own part, we would like to put together a matrix of the various system features that have been described, and indicate what's available today, acknowledge what's not available today, at least to expose where the very difficult areas are or their problems spots, if you will, in terms of providing searching capability that may be needed to support various staff functions.

[MR. PEYTON, Contd.]

"Beyond that, at least the companies in my Association would be willing to offer a public demonstration for all the members of the Advisory Committee, for anyone on the Commission's staff, or for the Commission, itself, and would like to come to show you what the state of the art is as of today, or a month from now, or whenever, two months from now, whenever would be a convenient time.

"And, finally, with respect to Commission meeting, if there is one next month, certainly the effort to date has demonstrated that there is no reason to halt the effort right now.

"On the other hand, we think that there are significant steps between where we are now and starting to write specifications or moving towards a procurement effort.

"And that includes not only the things we've talked about right now, but everything else that the General Accounting Office talked about in its recent report to Congress.

"There are simply more matters that need to be taken care of before we're ready to get an RFP out on the street.

"Getting an RFP out on the street, in a way, is a triumph in and of itself, because, if that's done right, then things follow mostly as a consequence after that.

"If there's a good RFP, then our job is largely done.

"But we don't want to be discovering things after the fact when the RFP is out on the street."

D.A. **GRANDT** [American President Lines] for the vessel operating carriers:

> "We'd like to start by commending the FMC and AMS on the work completed so far. We believe the feasibility of the automated tariff filing and inquiry system has been proven. And we recommend the FMC go forward with its deliberations in December. We support your efforts to eliminate paper tariffs.
>
> "We would like to stress five points, which have surfaced during the morning session, which we believe the FMC should seriously consider.
>
> "Number one. We appreciate Commissioner Carey's point this morning that we, the users of such a filing system, will be included in all subsequent steps in the process. Each of us carriers, individually and as a group, volunteer to participate in detailed design of the development and review of the system from here on out. If funding is of a concern, funding of travel costs is of concern or an obstacle to such participation, we will voluntarily absorb those costs.
>
> "Number two. We presume that the next steps will include a detailed implementation plan. We believe that alternate transition schemes should be evaluated, specifically with consideration for, one, a complete, once-and-for-all conversion of all paper tariffs to data format; and, two, a gradual transition from a paper library to an electronic library. We're concerned about the negative ramifications inherent in the latter. But certainly a cost-benefit analysis must be taken in to account here.
>
> "Number three. We empathize with small volume tariff filers who may opt not to utilize the proposed electronic system. However, on the other hand, we also are concerned that you may end up with an incomplete electronic depository. We believe a single, global system would give many positive benefits to the FMC, the filers, and to the retrievers. We believe that the FMC should seriously consider inputting such paper filings into the ATFI system.
>
> "Number Four. As to the question how much should we pay for filing electronically, we propose that filing should, at minimum, cost nothing to the filers, since the FMC will be benefiting by virtue of our participation in the system. Furthermore, we recommend that filing should be against an inducement in order to ensure that more tariffs are filed electronically than manually. You should offer to share some of your savings with us, the filers, perhaps on a per rate basis, with progressively higher bonus incentives for batch filings.

[MR. GRANDT, Contd.]

"Finally, number five. With regard to retrieval, we, with proprietary interest in the rate filings, should have access to retrieve out rates at some minimal cost to cover the incremental processing. Similarly, rates that any user retrieves from his own for his own end use should be relatively inexpensive, the cost reflecting incremental costing. We'll refer to this as retail. The counterpart to that is the wholesale market, whereby those users who would retrieve information from the system to be resold. We believe they should pay some market value; and that can be derived on an equivalent basis at, perhaps, the cost that is incurred now under the present systems to input that into other format.

"And that basically is our input at this time."

HARVEY FLITTER [U.S. European Carrier Associations] for the steamship conferences (Corrected by letter of January 23, 1987):

"The best thing about going last, Mr. Chairman, is that we can say 'Me, too.' And, certainly, with respect to the efforts that have been made by the Commission and AMS, thus far, we do say 'Me too.' And we think it's a great effort to date.

"Similarly, there's got to be a favorable cost-benefit ratio for this thing to work, for it to take off and get off the ground.

"We like the idea advanced by Mr. Reinka that there be a cooperative effort with the private sector.

"With respect to maintaining paper tariffs, we said in our last written comments, that we would foresee no problem with, for example, a group, one particular entity, filing paper tariffs, but not a mixture. And we gave as an example the terminal operators.

"In that respect, should smaller tariff filers find it a problem to automate, perhaps there could be a liberal phase-in period for them.

"Certainly the Conferences would not want to create any problem for outfits that might find automating a major problem in its early stages.

"We certainly support, as we stated this morning, the 'let's-keep-it-going efforts.' How do we do that? If the Commission adopts the final report, we might find a cost for a system that's prohibitive. We don't know at this time how that cost will be divvied up.

"We say the private sector should be involved. But we don't know what the costs might be.

"In any procurement efforts, we would hope that there be enough flexibility so that the bidders aren't bidding on a specific design. They ought to have a chance, an opportunity, to say, 'Look, we can do this, we can reach all of your objectives, but we're not going to build the structure exactly the way you've set it forth in your proposals.' So, I'd like to see some flexibility in the bidding scheme.

"Certainly the question of user fees will be an issue in rulemaking. We've indicated from the very beginning that Conference carriers would pay reasonable fees.

[MR. FLITTER, Contd.]

"There's been some talk about problems due to phasing in. Well, we had to stop temporary filings over night. We had enough advance notice. And I don't think anybody was caused any hardship by changing from temporary filings to permanent filings.

"This is a little bit more sophisticated. With sufficient advance notice, however, any major problem ought to be averted, even by smaller outfits who, as Mr. Dausz has indicated, probably will find it cheaper to continue doing business with third party vendors for automating their tariffs. Maybe even the terminal operators would find that to be the case going forward.

"With respect to standards, we understand that a certain amount of standards facilitate tariff automation. The final report indicates that it does not recommend rigid commodity codes or geographic codes. But the system ought, and we would support its development to allow for such standards as, e.g., a harmonized code. But certainly we're not advocating starting off with such codes as a condition precedent to tariff automation.

"The important thing is that the tariff contain commercial rates so that shippers can move cargo pursuant to such rates. If that can continue under rigid commodity coding--that's fine. There ought to be a time going forward, if that be the case, for the industry to comment, both shippers -- well, the same group that's represented here.

"One last comment concerning who pays for this. Well, who's paying for it now?

"We don't pay filing fees now. And that's not to imply that we ought to. Certainly there's going to be a lot of initial costs, new type costs, new type problems.

"And as I've said before, and I'll close by reiterating, that the Conference community is willing to pay reasonable user fees. In this regard bear in mind that the carrier community provides the product (rates).

The presentations of the industry groups being completed, **VICE CHAIRMAN CAREY**, asked for questions and comments, in response to which:

V.P. STAUNTON [Sea-Land Corporation]:

> "Not a question, just a comment.
>
> "I thought Mr. Reinka put in an excellent thought that I would hope is considered. And that was, if I could characterize it, back almost into Dave's thought of a prototype, this morning, before you go on to bed and get an RFP out with a rigid system and all this.
>
> "I would hope that's an option the Commission would consider, if nothing else, just to see what could be done in that area. And if something should develop like that, I can only tell you, and I suspect there's a number of us that would be willing to, we would volunteer a tariff or two of ours for a guinea pig on such a project.
>
> "I would point this out. I haven't seen a standard yet that we can't meet once it's a necessary thing to do. A little item such as -- little items, big items, such as a conformity checking, those can very easily done on the machine. Why haven't we done them? There was no need to do them and it was just an additional expense to put it in.
>
> "But I'm sure any of the third party vendors could easily program something in to treat that need. And we could get to those type things in even a guinea pig mode with a tariff or two."

As suggested by **MR. EWERS**, The record of the meeting was closed at adjournment, except for a submission by Mr. Peyton to be received at the Commission by the end of November, 1986. *

VICE CHAIRMAN CAREY, concluded the meeting:

> "Well, there being none [further comments or questions], the next step, I guess, is up to us.
>
> "We have, now, your advice and your input. We are at the point, as they say in the ad, where the rubber meets the road.
>
> "I am hopeful that we can have our decision, that the Commission can meet on this in December. That does not mean that there will be a decision in December. Certainly, I would like to have our initial meeting then.
>
> "There is a possibility, as I keep bringing up, that we would choose not to go further. If that is the case, then this group would not be meeting further. Because that is a

possibility, however slight, it may be, with all of your recommendations, I would like, at this point, on behalf of the Chairman and my fellow Commissioners, to thank all of you, and the companies, and the segments of the industry that you represent for the giving of your time and your input, your suggestions.

"I have spent most of my life in the corporate world. This is the way I have always envisioned Government should work, with Government getting some advice from the private sector, and then trying to work hand-in-hand, so that the wishes of the Congress are lived up to, but also so that the needs of industry and the American public, who, in the bottom line, pay for everything the Government does, that those needs are also met.

"And, so, I would like to thank all of you for being here. And, please, if you would, take that thanks back to your corporate officials and tell them that we really and truly do appreciate it, and that, hopefully, we will not come out now, as we address this, with a horse with two heads.

"So, thank you all very much. And this meeting is adjourned."

The meeting was adjourned at 3:56 p.m.

* * * * * *

DESIGNATION OF PRESIDING OFFICIAL

This is to confirm my designation of Vice-Chairman James J. Carey as the Presiding Official for the ATFI Advisory Committee meeting of November 19, 1986.

Edward J. Philbin

Edward J. Philbin,
Commissioner, FMC
Chairman,
ATFI Advisory Committee

* * * * * *

* Mr. Peyton's submission was timely received and is attached as **EXHIBIT D.** For the record, the acknowledgement of Mr. Peyton's letter by Mr. Ewers, the response of AMS to Mr. Peyton's letter, and Mr. Peyton's follow-up letter are also included, as **EXHIBIT E**, **EXHIBIT F**, and **EXHIBIT G**, respectively.

John Robert Ewers

John Robert Ewers
Executive Secretary

APPROVAL

The foregoing summary of the minutes of the November 19, 1986 meeting of the Federal Maritime Commission's Automated Tariff Filing and Information System (ATFI) Advisory Committee are hereby approved this day of January, 1987.

James J. Carey
Vice Chairman, FMC
Presiding Officer
ATFI Meeting of 11/19/86

D

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Vice President, Administration
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December 1, 1986

Mr. John Robert Ewers
Executive Secretary
ATFI Committee
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573

HAND DELIVERED

Dear Mr. Ewers:

On behalf of the Information Industry Association and as a member of the ATFI Committee, I am pleased to submit this letter for inclusion in the record of the Committee.

As I discussed at the Committee's meeting of November 19, 1986, the AMS report raises a fundamental choice to the Commission, for which it provides an inadequate foundation. Rather than building upon existing private sector products and services, the AMS report suggests the creation of an entirely new automated tariff filing, processing and retrieval system, at a present-value cost estimated by AMS to be at least $7 million.

I have reviewed the materials made public by AMS, including, but not limited to its "Final Report" dated October 28, 1986, and deliverables 6 and 7, which although dated August 20, 1986 and September 12, 1986 respectively, were not made available to the ATFI Committee until after the November 19, 1986 meeting. To judge from what has been made available, AMS has inadequately addressed the bases for its recommendations in light of the products and services currently available from private information industry vendors. At a minimum, AMS should have analyzed the incremental costs of building upon existing products and services, as well as the adverse impact of its proposal to invent an entirely new system. Instead, AMS, evidently at the direction of the FMC Steering Committee, did detailed analysis of three variants, each of "... which assumes that the hardware and software environment would be build from scratch..." (Deliverable 6, Appendix A). The second-order choice has been detailed, while the first-order choice has been ignored.

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Mr. John Robert Ewers
December 1, 1986
Page 2

Based on my consultations with members of the Information Industry Association that now market FMC-related products and services, AMS failed adequately to survey these members (notably Transax/RATES of Journal of Commerce, Inc. and Starcom International, Inc.). In particular, Exhibit 1 to Deliverable 7 (p. 9) gives such a cursory and misleading picture of current capabilities, that we feel compelled to offer here a summary display of existing service features, which, at a minimum, the contractor should have done. 1/ This failing is in part reflected in the lack of analysis of the possibility of utilizing such products and services as part of or as a supplement to any FMC system, and the report's inadequate consideration of the legal and policy limitations imposed on the FMC, especially OMB Circular A-130. The FMC may not duplicate currently available or foreseeably available private sector services and products, unfairly compete with the private sector, or unbalance the current level playing field in which the private sector competes. In this regard, we strongly object to the supposed characterization of the information industry's views contained at page 18 of Deliverable 6. We were never asked directly what we would think of the postulated Basic System, and it should be clear from this letter that we do have serious reservations.

1/ Appended as Exhibit 1 is a matrix comparison of the AMS described "required" features for an FMC tariff automation system (AMS Final Report, Section III) and the products and services provided by private vendors of tariff filing, analysis and retrieval products and services. This matrix was prepared since the ATFI Committee meeting of November 19, 1986 and within the limited time the FMC allowed for this submission. We fully hope that the FMC will, at some point in the future, comprehensively analyze existing services and products. Let me repeat our offer to arrange a live demonstration for the Commissioners, staff and the ATFI Committee members. We feel that this, in a way better than Exhibit 1, would demonstrate what has already been done by the private sector.

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Mr. John Robert Ewers
December 1, 1986
Page 3

The AMS report, while relatively clear on what the FMC should want, fails to justify, in terms of costs, benefits, and impacts, the particular choices that were made. There is indeed a relatively mature industry now providing much of what the FMC seeks in terms of electronic filing and retrieval functions. Before that industry is seriously disrupted by a wholly new system, a great deal more justification is required. However, the report contains neither a comprehensive description of current services and products nor a justification for creating a stand alone new system. The analysis should have explored the extent to which existing systems could be adapted to meet the FMC's needs. The incremental costs of such adaptations, even if borne by the FMC, are likely to be substantially less than the costs for the wholly new system AMS suggests be created.

It is a non sequitur for AMS to characterize as "missing" those features that there is no current market need to provide, e.g., all the processing features desired by the FMC. It is hardly surprising that no existing private vendor has developed the software for internal FMC processing or maintains the historical information only of interest to the FMC. There has been no demand for such capabilities.

The "missing" features that are not now demanded by the marketplace could, as I understand it, be developed as enhancements to existing services and products. For example, the AMS report indicated that current vendors do not provide historical data. What AMS fails to note is that historical data can easily be added as a feature, and is not now a feature only because there is insufficient market interest in that data. Moreover, any "new" system would lack the tariffs that are now available in electronic form. 2/

2/ In addition, the AMS report fails to recognize the extremely high cost of converting existing tariff filing and database technologies to the standards that would be required by any FMC imposed system.

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Mr. John Robert Ewers
December 1, 1986
Page 4

In short, a great deal of additional work is needed before the FMC could or should decide to proceed with the system envisioned by the AMS report. The AMS report presents a fundamental policy choice for the FMC, but so far, that choice is inadequately supported.

I trust that I can rely on you to provide copies of this letter and its attachment to the other ATFI Committee members.

Sincerely,

David Peyton
David Peyton

Attachment (Exhibit 1)
cc: Vice Chairman Carey

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EXHIBIT 1

Matrix Comparing Present Third Party Providers' Technology
With American Management System Inc.'s Requirements
For Tariff Automation As Outlined In The Final Report
To The Federal Maritime Commission,
October 28, 1986, Section III, Pages 1-5.

Requirements	Presently Available	Not Presently Available	Notes
A. Tariff Filing			
1. Electronic transmission	X		
New tariffs	X		
Amendments	X		
Service contracts	X		
2. Electronic receipt	X		
Date and Time Certify	X		
3. Fault tolerant filing	X		
Hardware and software	X		
Communication	X		
4. Compatible with other systems	X		
5. Mainframe computer at FMC	X		
6. Commodity and geographic coding		X	Adaptable

D

Requirements	Presently Available	Not Presently Available	Notes
B. Tariff processing (at filer location)			
1. Route tariff filing automatically	X		Networking
2. Perform computer-assisted conformity-checking	X		Limited to graphic and size standards
3. Generate communications automatically		X	Adaptable
4. Provide tickler capability	X		Exception or suspense file
5. Provide a tracking function	X		Audit report
6. Compile workload statistics	X		Audit report
(At FMC Location by FMC)			
1. Route tariff filing to analyst automatically		X	Adaptable
2. Perform computer-assisted conformity-checking		X	Adapatable
3. Generate FMC communications automatically		X	Adaptable
4. Provide tickler capability		X	Adaptable
5. Provide a tracking function		X	Adaptable
6. Compile workload statistics		X	Adaptable

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Requirements	Presently Available	Not Presently Available	Notes
C. Retrieval and anaylsis of tariff (including service contract) information			
1. Allow FMC to retrieve current tariff information by:			
Type of tariff	X		
Carrier	X		
Conference	X		
Terminal operator	X		
Shipper	X	X	Adaptable
Commodity	X		
Item number	X		
Quantity/volume		X	Adaptable
Origin	X		
Destination	X		
Trade	X		
Subtrade	X		
Date of shipment		X	Adaptable
2. Allow FMC to retrieve historical tariff			
Latest revision	X		
Older than last revision		X	Adaptable

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Requirements	Presently Available	Not Presently Available	Notes
3. Allow FMC to retrieve current tariff information in different format	X		
Entire tariff	X		
Page	X		
Line item	X		
Specific rule	X		
4. Provide tools to enable FMC to analyze tariff data			
Upload or download entities	X		Limited to marked data
Download to Lotus, etc. data base	X		Limited to marked data
Re-rating	X		
5. Provide easy access to tariff data			
Bulk tariff pages	X		
Bulk tariff data		X	Adaptable
6. Cross-cutting system requirements			
Data base accuracy	X		

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Requirements	Presently Available	Not Presently Available	Notes
Data base timeliness	X		
Data base security	X		
Clarity of output	X		
User-friendly	X		
World-wide access	X		

E

FEDERAL MARITIME COMMISSION
WASHINGTON, D.C. 20573

December 17, 1986

David Peyton, Director
Government Relations
Information Industry Association
555 New Jersey Avenue, N.W.
Suite 800
Washington, D.C. 20001

Dear Mr. Peyton:

This will acknowledge receipt of your letter of December 1, 1986, with exhibit, submitted for inclusion in the record of the ATFI Advisory Committee. In this letter, you object to the alleged recommendation of American Management Systems, Inc. (AMS), contained in the ATFI Feasibility Study, that the Commission create a new automated tariff filing processing and retrieval system, rather than build upon existing private sector products and services. You argue that in the relevant supporting analysis papers, Deliverables 6 and 7, which you allege were not made available to you prior to the November 19, 1986 meeting of the ATFI Advisory Committee, AMS has not adequately assessed the adaptability of existing systems to Commission needs and has failed to recognize significant potential cost savings that can be achieved by building upon those existing systems. Finally, you state that proper consideration was not given to the legal and policy limitations of OMB Circular A-130.

With respect to the availability of Deliverables 6 and 7, the ATFI Policy Steering Committee decided not to mail copies of all AMS Deliverables to Advisory Committee members in advance of the November 19, 1986 meeting because these materials are voluminous, and costly to reproduce and transmit. However, these materials were made available to those Advisory Committee members who requested them. I invite your attention to page I-1 of the AMS Final Report, provided to Advisory Committee members in advance, wherein it is stated that "Copies of... all other documents referenced below can be obtained at cost by request to Mr. James A. Warner..." and also to pages IV-9, 17 and 18 where these Deliverables are referenced in connection with, inter alia, "Hardware" and "Cost Estimates." These two Deliverables were again mentioned at the meeting of November 19, 1986, were requested by you to be made available, and a distribution was made at the meeting. The record of the

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meeting was held open to include your comments on these parts of the Feasibility Study.

On December 2, 1986, the Commission's ATFI Policy Steering Committee considered your letter and decided that AMS should have an opportunity to respond to it before the Steering Committee recommends further action. Your letter, this letter and the AMS comments will be included in the minutes summary of the November 19, 1986 Advisory Committee meeting. Additionally, your concerns and recommendations will be presented in the Final Report and Recommendations of the Advisory Committee on which you will have an opportunity to comment before submission to the Commission.

As has been repeatedly stated, the AMS Feasibility Study is just that, and is not the final word on the ATFI System. The Commission has not made a final decision to proceed at this juncture. The Steering Committee will make its own recommendations to the Commission. To prepare for the possibility that the Commission decides to proceed, the Steering Committee is presently analyzing ADP procurement strategies that will allow current vendors to propose system designs that incorporate existing products and services while also providing adaptations that will fulfill Commission needs. If the Commission decides to proceed, it will, of course, comply with OMB Circular A-130, including undertaking a cost-benefit analysis, in any procurement procedures utilized.

Your offer on behalf of the Information Industry Association (IIA) to arrange a live demonstration of existing services and products for the Commission, staff and ATFI Committee members will be presented to the Commission for its consideration. Our primary concern is the compatibility of your offer with procurement policies and requirements. In our opinion, however, it is inappropriate for an Advisory Committee member to recommend or promote particular members of organizations which may be prospective offerors of ADP services in a future ATFI Project procurement. The naming of specific firms in communications with the Commission or limiting any future demonstration to particular firms, while excluding others, could undermine the perceived objectivity of recommendations to the Commission and of the Commission itself. Moreover, promotion of particular IIA firms in Advisory Committee matters could give the appearance of impropriety or a conflict of interest, possibly resulting in the disqualification of those firms from any participation in ATFI procurements.

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In any event, your December 1, 1986 letter will be included in the Advisory Committee Record, as you request. The Commission looks forward to your further input and continues to appreciate your contributions to the automated tariff project.

Sincerely,

John Robert Ewers

John Robert Ewers
Executive Secretary
ATFI Advisory Committee

American Management Systems, Inc.

F

December 9, 1986

Mr. James A. Warner
Chief, Office of Foreign Tariffs
Federal Maritime Commission
1100 L Street, N.W., Room 10215
Washington, DC

Dear Mr. Warner:

AMS has reviewed comments received on the feasibility study. AMS stands by our findings as stated in our final report. Specifically, tariff automation appears to be complex, but technologically feasible. Our cost estimate for the feasibility study was based on advanced methods for performing these types of analyses in the feasibility study stage. We carefully documented our cost analysis, including all line items, assumptions, and formulas, as discussed in the final report. Our cost estimate is conservative, and as we explained, there is a chance that actual cost might be lower in part as a result of the competitive process. Our report notes that some existing third-party services have systems that include some of the features needed by FMC. We noted in our report that should FMC decide to issue a procurement for an automated tariff system, some of the existing third-party system services might submit bids.

Kindest regards.

Sincerely,

David J. Alexander
David J. Alexander
Senior Principal

DJA/rv

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G

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December 26, 1986

Mr. John Robert Ewers
Federal Maritime Commission
1100 L Street, NW
Washington, DC 20573

Dear Bob:

It seemed like a good idea to close the recent correspondence between you and me in a satisfactory way. In particular, I wish the record to clearly note that I certainly did not intend to create an awkward situation by offering to arrange a live demonstration of existing electronic tariff information services.

My intention was to provide the Commissioners and staff an opportunity to see for themselves the type of automated tariff systems that already exist in the private sector. Also, since we had to prepare the previously provided matrix quickly, there may be some varying usage of terms between the various documents involved. A demonstration would permit you to verify for yourself just what can be done now and what can't.

I agree that such a demonstration may be inappropriate once a formal procurement is initiated. However, at this point in time the FMC is engaged in gathering information to be used in deciding on a course of action. A demonstration of private sector capabilities may assist the Commission in its efforts. It was also not my intent to favor selected companies over others. On the other hand, it must be obvious that I am most familiar with the capabilities of IIA members. Should the Commission believe that a demonstration is desireable, I would certainly encourage you to invite any interested company to participate.

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G

Mr. John Robert Ewers
December 24, 1986
Page Two

Perhaps it would be useful for me to repeat here an observation I made at the first Advisory Committee meeting: there is no reason to assume that only companies already in the business will be the only ones interested. One has only to read Electronic Shipping News to see the dynamism of the trade documentation area. The only purpose to have been served by a demonstration was informative, without prejudice to any potential entrant, of which there may be several.

I take it, howver, that the offer of a demonstration is unwelcome. Accordingly, please consider the offer withdrawn. In the meanwhile, I look forward to hearing from you about any further Advisory Committee activities.

Yours truly,

David Peyton

David Peyton
Director
Government Relations

RESPONSES TO QUESTIONS SUBMITTED BY THE HONORABLE GLENN M. ANDERSON TO THE FEDERAL MARITIME COMMISSION ON H.R. 4200, FISCAL YEAR 1989 MARAD/FMC AUTHORIZATION

(MARCH 23, 1988)

1. Do you believe that the FMC has the resources it needs to carry out section 13(b)(5) under the 1984 Shipping Act? I am not at all certain whether any requests have ever been made under this section. However, do you foresee requests under this section in the future?

Section 13(b)(5) of the Shipping Act of 1984, 46 U.S.C. app. § 1712(b)(5), allows the Federal Maritime Commission to take action whenever a foreign common carrier or a foreign government unduly impairs the access of a United States-flag vessel in a foreign-to-foreign, or cross trade. To date, there have been no requests by U.S.-flag carriers that the Commission invoke this particular remedy. The Commission is nonetheless prepared to take action under the appropriate circumstances and could probably do so without any additional resources.

Soon after the 1984 Act was enacted, the Commission adopted procedural rules that will allow it to respond quickly to legitimate petitions for relief under section 13(b)(5). See, 46 C.F.R. Part 587. In addition, the then-Chairman of the Commission, Alan Green, met with the chief executive officers of all the U.S.-flag liner operators informing them of the existence of section 13(b)(5) and the Commission's willingness to assist them under it.

In light of the increasing predeliction of foreign governments to do whatever they are able to foster their own merchant fleets, it may only be a matter of time before section 13(b)(5) must be employed to aid U.S.-flag carriers.

2. Mr. Philbin, I would like to commend you on the FMC's effective action under your leadership against the Taiwanese under section 19 of the Merchant Marine Act of 1920. I am pleased to see that the Taiwanese will now loosen some of their onerous terminal and operating restrictions on American liner companies. Does the FMC intend to pursue section 19 action against some of America's other large Far Eastern Trading partners that also have many of the same type of restrictions as Taiwan?

The Commission's section 19 action in Taiwan grew out of an inquiry into the United States/Taiwan trade conducted pursuant to section 15 of the Shipping Act of 1984. Based on the information provided in the responses to the section 15 order, the Commission issued a proposed rule pursuant to section 19 which addressed restrictions on the ownership of dockside equipment and facilities and on terminal licensing. Subsequently, these restrictions were substantially lifted. Having achieved the objectives of the rulemaking, the Commission discontinued the proceeding and withdrew the proposed rule.

The Commission also served a section 15 order inquiring into conditions in the United States/Korea trade. On March 28, 1988, the Commission issued a Notice which reported on the responses to its section 15 order and requested further comments and data from interested parties. While the Commission decided not to initiate section 19 action at this time, based on commitments of the Korean government and expected progress on shipping issues, the Commission will reassess the need for such action later this year. A copy of the Notice on Korea is attached. *

A section 15 order was also issued which sought information concerning shipping conditions in the United States/China trade. The responses to that order have been received and are currently being reviewed to determine whether section 19 action is appropriate.

In addition, it should be noted that the Commission has received responses to a second supplemental section 15 order which sought information concerning the use of high-cube containers in the United States/Japan trade. The Commission is currently reviewing these responses to assess current conditions in that trade.

*(Editor's Note: See Printed Hearings 100-38 for a copy of the 14 April 1987 Section 15 Order.)

ATTACHMENT TO QUESTION NO. 2
(ANDERSON QUESTIONS)

March 28, 1988

FEDERAL MARITIME COMMISSION

INQUIRY INTO LAWS, REGULATIONS AND POLICIES OF THE REPUBLIC OF KOREA AFFECTING SHIPPING IN THE UNITED STATES/KOREA TRADE

NOTICE

By service of an order pursuant to section 15 of the Shipping Act of 1984, 46 U.S.C. app. § 1714, ("Section 15 Order") on April 14, 1987, the Federal Maritime Commission ("Commission" or "FMC") initiated an inquiry into the existence and impact of laws, regulations and rules of the Government of the Republic of Korea ("ROK") affecting the ancillary maritime activities carried on in the ROK by common carriers serving the U.S. foreign trade with Korea ("Trade"). The Commission here reports on the information it has received in response to its Section 15 Order and requests further comments and data from interested parties.

BACKGROUND

In its Section 15 Order, the Commission noted its responsibilities pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. § 876, ("Section 19") to act in response to unfavorable conditions affecting shipping in the U.S. foreign trades. The Commission expressed its concern that laws, regulations or rules, as well as policies or interpretations by administrative authorities, which prevent U.S.-flag and other non-ROK-flag carriers from establishing, owning or operating ancillary maritime activities in the manner they believe to be most efficient for their Trade operations unfairly burden these carriers and may result in conditions unfavorable to shipping within the meaning of Section 19. In order to inform itself as to the existence and actual impact of such laws, rules, regulations and policies, the Commission requested each of the non-ROK-flag carriers serving the Trade to respond to a series of questions concerning ROK laws, regulations, administrative interpretations and policies affecting specific areas of shore-side shipping operations, as well as the possibly discriminatory impact of laws and regulations dealing generally with taxation of shipping revenue, immigration and business operations.

There appeared to be a number of ROK-generated obstacles to the carriers' efficient operation of container services in the ROK. The major problems which appeared to exist were organizational restrictions on the carriers which require operation through a Korean-owned general agent and prevent non-ROK-flag carriers from performing their own sales, marketing, contracting, warehousing, trucking and equipment maintenance and repair functions; the "waiver" system of cargo preference for ROK-flag carriers;[1] and restrictions which prevent ownership and operation of terminal facilities by non-ROK-flag carriers. Attempts to form an organization, the "Korean Foreign Steamship Owners Association," through which to express the collective views of non-ROK-flag carriers to the ROK Government had also been unsuccessful due to the refusal of the Korean Maritime Port Administration ("KMPA") to register its charter.

The Department of State ("DOS") and the Department of Transportation ("DOT") also were requested to provide the Commission with information regarding their past and current talks with the ROK Government on these maritime issues. At the same time that information was sought from carriers operating in the Trade through the Section 15 Order, the views of other interested persons were solicited through a Notice published in the Federal Register (52 FR 13520, April 23, 1987).

Discussions between the U.S. and the ROK government representatives on shipping matters were held on May 6-7, 1987. The U.S. delegation led by Administrator John Gaughan of the Maritime Administration ("MARAD") met with an ROK delegation chaired by KMPA Deputy Administrator Hahn Tae-Youl. The Agreed Minutes of those talks reflect a commitment by the ROK Government to revise the necessary laws and regulations to permit the operation within Korea of branch offices of U.S.-flag carriers which may conduct direct business activities, including cargo booking, marketing, negotiation and contracting for warehousing and railroad services. These authorizing revisions were to be effected by January 1, 1988, or "at the earliest possible date in 1988" based upon the utmost effort of the ROK Government. The Agreed Minutes reflected no progress with respect to ROK prohibition of foreign participation in trucking operations within Korea. The ROK did, however, agree to remove all discrimination against U.S.-flag carriers in the operation of container terminals, berthing terms and CFS facilities. Agreement to permit the formation of a foreign carriers' association was also reached in these meetings.

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[1] Navios Management, Inc., d/b/a Pacific America Line (PACAM), a carrier by water in the Trade, has filed a petition under Section 19 alleging that conditions unfavorable to shipping have been created by the waiver system of cargo preference for ROK-flag carriers with respect to the carriage of steel products. By Notice of Filing of Petition published in the Federal Register on March 16, 1988, 53 FR 8697, the Commission requested interested persons to file comments, views and data on the petition within 30 days. This petition, and the waiver system to which it relates, will be treated as a separate matter from this inquiry.

These developments were reported to the Commission by then Deputy Secretary of Transportation Jim Burnley and Deputy Assistant Secretary of State Jeffrey N. Shane in their responses to letters from former FMC Chairman Edward V. Hickey, Jr. requesting information.

RESPONSES TO THE SECTION 15 ORDER

All of the carriers served with the Section 15 Order responded to it. The only comment received in response to the Federal Register Notice was from the members of the U.S. Flag Far East Discussion Agreement, FMC No. 203-010050 ("Agreement No. 10050").

Responses to the Section 15 Order collectively detail the various laws, rules and regulations which govern the carriers' operations in the ROK. Less information is provided regarding the impact of these enactments on the manner in which the various carriers might otherwise wish to operate in Korea, or the effect on shipping generally in the Trade.

Most of the carriers who responded evinced little interest in conducting the shoreside maritime activities into which the Commission inquired and provided little or no information concerning the specific legislation, regulations or agencies which govern such activities. Detailed and informative responses, however, were received from a few of the carriers. English language copies of most of the relevant enactments have been provided by one carrier or another.

A complex pattern of legislation, regulations and administrative agency oversight affecting the transaction of maritime-related business activities in the ROK emerges upon analysis of the carriers' responses. Some 10 laws and 6 sets of implementing decrees have been identified. The laws, regulations and administrative responsibilities which most affect ancillary maritime operations in the ROK are summarized below.

The Road Carriage Vehicles Act (1962, as amended) reportedly requires the registration of motor vehicles with the ROK Ministry of Transportation ("MOT") and prohibits operation of a vehicle unless it is registered. Article 4 of that Act is said to require that registration be withheld for any vehicle intended for business use unless the business is registered under the Automobile Transportation Business Act. The Automobile Transportation Business Act (1961, as amended), regulates the carriage of cargo by motor vehicle within Korea. Article 4 of that Act reportedly requires that such business must be licensed and registered with the MOT.

The Foreign Capital Inducement Act (1983, as amended), governs the investment in or acquisition of an equity interest in any business by a non-ROK national or company. Article 7 of that Act permits foreign investment except when it equals or exceeds a 50 percent interest or when it is in a project in which foreign investment is "restricted." Projects in which foreign investment is restricted are to be identified and notice of them published by the Minister of Finance ("MOF") in consultation with the competent minister for the industry affected. Foreign investment in such projects may nevertheless be granted upon request under such conditions as the MOF deems necessary. Article 9 prohibits foreign investments in projects to be carried out by the nation or public entities.

Guidelines For Foreign Investment, Ministry of Finance Notification 87-6, (April 6, 1987), contains guidelines for Government approval of foreign investment issued pursuant to Article 3 of the Foreign Capital Inducement Act. The Guidelines constitute the so-called "negative list" of projects in which foreign investment is restricted pursuant to Article 7 of the Foreign Capitol Inducement Act or prohibited pursuant to Article 9. The transportation enterprises on the list of prohibited projects, listed with the "relevant ministry," include port operation (KMPA). The far more extensive list of restricted projects includes: freight transport, regularly scheduled (MOT); special freight transport, non-regularly scheduled (MOT); general local freight transport (MOT); local general cargo pick-up delivery transport (MOT); freight transport by road, N.E.C. (MOT); freight terminal services (MOT); land stevedoring (MOT); supporting services to land transport, N.E.C. (MOT); freight forwarding (MOT/KMPA); freight brokerage (MOT/KMPA); and services incidental to transport, N.E.C. (KMPA).

The Maritime Transportation Business Act, (1983, as amended), regulates the maritime transportation business including freight forwarding, shipping agency, vessel chartering, maritime cargo and passenger transportation, vessel managing and maritime cargo brokering. Enterprises engaging in such businesses must be licensed by the KMPA. Article 35 of that Act specifies as one of the conditions for registration of a business to conduct freight forwarding, vessel management, vessel chartering, shipping agency or maritime cargo brokering, that the equity be entirely Korean owned, except that foreign investment in a vessel chartering enterprise is permitted but may not exceed 49 percent.

The Maritime Transportation Industry Fostering Act, (1967, as amended), requires the annual establishment of a plan for fostering the maritime transportation industry. Article 16 of that Act requires that "designated cargoes" (to be designated by Presidential Decree) move on ROK-flag vessels. Under the Maritime Transportation Industry Fostering Act Enforcement Decree and Enforcement Regulations, goods designated in the Decree may reportedly move only on ROK-flag vessels unless freight exceeds 110 percent of the low bid for such movements. KMPA is authorized to "designate" additional categories of goods. Designated cargoes reportedly include imports of crude oil; raw materials for the manufacture of steel and chemicals; fertilizer; grain; coal; refrigerated cargoes for agricultural, fish or dairy associations; LNG; and government cargoes. Designated export cargoes reportedly include cement and steel products. KMPA Notice No. 85-15, Operating Guidelines for Regulations for Adjustment of Cargo Carriage by Korean Flag Vessels (March, 1985), establishes procedures for compliance with the Maritime Transportation Industry Fostering Act and Enforcement Decree and regulations thereunder, including provision for obtaining waivers through the Korean Shipowners Association for the carriage of designated cargoes when no ROK-flag vessels serve the area or are available.

The Harbor Act (1967) reportedly requires that port facilities be ROK Government owned. There is apparently also a Harbor Transportation Business Act whose content and effect were not further identified in the responses.

The Alien Land Acquisition Act, (1961, as amended), states that acquisition of land by non-ROK nationals or companies must be approved in advance by the Minister of Home Affairs. Approval may be denied or conditioned as necessary for reasons of national defense, industry or other public purpose. Article I of the Alien Land Acquisition Act Enforcement Decree, (1970, as amended), reportedly requires the Ministry of Home Affairs to expedite approval of land purchases by business enterprises approved by the MOF under the Foreign Capital Inducement Act.

The Customs Act, Section 3: Licensed Bonded Areas, regulates the establishment and requires licensing of bonded storage areas for goods to be subjected to customs clearance procedures, and bonded warehouses for storage of foreign goods. The Customs Act requires that one wishing to transport goods from one bonded area to another must be licensed to do so by the customs collector and must file a manifest for each such movement. Article 3 of the Storage Business Act reportedly requires a license to operate a container terminal for which application must be made to the KMPA.

The Foreign Exchange Control Act, (1961, as amended), requires that contracts for services between non-ROK nationals and ROK nationals be approved in advance by the MOF. Article 21 of that Act requires that remittance of currency out of Korea must be in conformity with MOF regulations. Foreign Exchange Control Act Enforcement Decree, Article 33, also requires that contracts for services between foreigners and ROK nationals be approved in advance by the MOF. Ministry of Finance Regulations under the Foreign Exchange Control Act reportedly require at Articles 16-1 and 16-8 that the establishment of a branch office in Korea by a foreign enterprise must be reported in advance to the Bank of Korea if the branch office will remit profits out of Korea.

DISCUSSION

The responses to the Section 15 Order thus detail an interlocking fabric of enactments that, by preserving certain business opportunities in the ROK for Korean nationals, may effectively handicap non-Korean international shipping lines in their competition with ROK-flag carriers. For example, regulation of the trucking industry appears to be contained in the Automobile Transportation Business Act and the Road Carriage Vehicles Act. The latter requires that any vehicle to be used for the business of cargo transportation be registered with the Ministry of Transportation, which will not register any such vehicle if the business enterprise itself has not been registered and approved under the Automobile Transportation Business Act. Neither of these Acts prohibits foreign nationals or companies from entering the business. However, another statute, the Foreign Capital Inducement Act, regulates the degree to which foreign nationals and companies may engage in economic activity within Korea. This Act authorizes the Ministry of Finance in conjunction with other appropriate concerned government authorities, to identify and give public notice of business activities in which foreign investment is "restricted."[2] Foreign investment in the businesses listed apparently is limited to participation under criteria which may be promulgated by MOF for some industries in consultation with other authorities, and then only with prior MOF approval.

All forms of cargo transportation by motor vehicle are on the list published by the MOF, and the MOT is shown as the concerned ROK Government authority. As a practical matter, several carriers report, no foreign participation in businesses reflected on the "restricted" or "negative" list has ever been permitted. It appears, therefore, that non-ROK-flag carriers cannot own or operate trucking services to provide pick-up and delivery of cargo within Korea, or to dray loaded containers to and from the docks. One further apparent result of this fabric of laws, decrees, and administrative interpretations is that U.S. carrier-owned container chassis cannot be registered in the carriers' names, but must be transferred in some fashion to the Korean-owned trucking companies with whom they must contract for trucking services.

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[2] The Foreign Capital Inducement Act also prohibits foreign investment in activities to be undertaken by the ROK. Another enactment, the Harbor Act, apparently reserves for national or local governments the authority to build or operate piers and harbors. The concerned ROK authority, KMPA, interprets this to include on-dock CY/CFS facilities, thus precluding foreign-flag carriers from providing these services.

The ways in which the various enactments may hamper and restrict those non-ROK-flag carriers who wish to carry on their own ancillary maritime activities and are willing to make the significant investment necessary for such operations are discernible. Although, as is also clear from the responses, most of the carriers operating in the Trade do not envision undertaking such operations and do not desire to make such investments, the U.S.-flag carriers are among those few who do.[3]

While the responses reflect the discriminations practiced, they are far less detailed or informative as to any detrimental impacts these practices visit on U.S. interests protected by Section 19. The responses contain little quantitative information regarding the costs to the carriers of operating under the constraints imposed by these enactments rather than their preferred manner of operations, such as, for example, the costs of using Korean agents as opposed to the costs of these operations performed in-house in other countries. Nor did the Commission's Federal Register Notice elicit any response from shippers who believed themselves disadvantaged by the non-ROK-flag carriers' inability to provide these services. Nevertheless, the record thus far compiled by the Commission with respect to the laws and practices of the ROK suggests that conditions unfavorable to shipping exist in the Trade.

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[3] However, this is not to say that other major operators would not take advantage of, and benefit competitively from, liberalization of these restrictive practices.

It should, however, be noted that in May 1987, the ROK undertook to make changes in these laws and practices which could significantly affect and apparently resolve at least some of these conditions. As reflected in the Agreed Minutes of the May talks, the ROK side agreed to permit the establishment of branch offices by U.S.-flag carriers in Korea to act as full-service shipping agencies, which may directly engage in sales, marketing, contracting, negotiations with railroads and trucking firms and contracting for warehousing. These measures, including legislative changes, were to become effective January 1, 1988 or "at the earliest possible date in 1988." The ROK also agreed to end all discriminatory practices concerning the use of container yards and CFS facilities and berthing rights at Pusan.[4] Approval of the Korean Foreign Steamship Owners Association (to be named the "Association of Foreign Shipowners Representatives") was agreed to by the ROK.

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[4] These measures were completed by the ROK effective on February 1, 1988.

Although the participation of U.S.-flag carriers in inland trucking operations and the ownership of container terminals by U.S.-flag carriers were also discussed, no progress was made on these issues.

The timing of changes to be undertaken following the May 1987 talks appears to have suffered some slippage. These issues were most recently addressed in talks held in November 1987 in Seoul, by a U.S. delegation representing the Departments of State and Transportation and representatives of the ROK. In a recent letter to inform the Commission of the results of these talks, Maritime Administrator Gaughan reported that legislative action and implementing regulations to be undertaken by the ROK Government to permit U.S. flag carriers to open and operate branch offices could be expected by June 30, 1988.

The Commission is heartened by the progress which has been made with respect to the equal treatment of U.S.-flag and ROK-flag carriers in the use of container yards and other port facilities at Pusan, and expects that further progress will emerge as a result of legislative and regulatory changes which the ROK Government has committed itself to make. Nevertheless, the Commission continues to be concerned with practices and activities of the ROK affecting ancillary maritime activities in the Trade, particularly with respect to the trucking of containers. We are also concerned that some uncertainty appears to exist as to the precise nature and extent of the activities which having branch office status will permit U.S.-flag carriers to undertake. These issues will, no doubt, be clarified once the legislative changes contemplated by the ROK Government are in place.

Intergovernmental consultations are again scheduled to take place when a delegation representing the U.S. Departments of Transportation/MARAD and State visit Korea next month. It is hoped that further progress on the outstanding issues will be made, and that at least some clarification of the status of non-ROK carriers to be expected from the proposed legislative actions will be clarified in these discussions. The Commission has communicated these concerns by a letter to Maritime Administrator Gaughan, and has requested early notification of the outcome of these meetings.

While the Commission has decided not to initiate action pursuant to section 19 at this time, based on the ROK's commitments and the progress on some of these issues which has been realized or is expected, the Commission will reassess the need for such action later this year after the ROK Government has had the opportunity to fully act on its May 1987 commitments. To assist the Commission in this inquiry, interested parties, including those carriers affected by the relevant ROK laws, rules and policies, are requested to submit information, comments and data concerning the current status and effects of ROK laws, rules and policies on the operations of international ocean carriers in the ROK on or before July 15, 1988.

By the Commission.*

Joseph C. Polking

Joseph C. Polking
Secretary

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* Commissioner Ivancie's dissenting opinion is attached.

Dissenting Opinion of Commissioner Ivancie

The response to the Section 15 order reveals some progress in the areas of concern to the Commission. It appears that the issue relating to the formation of a foreign shipowners' association seems to have been favorably resolved. Similarly, information in the record seems to indicate that some of the preferential treatment afforded to Korean-flag carriers in their use of container yards, terminals and container freight stations has been ended. In addition, the intergovernment consultations between representatives of both countries seem to indicate a willingness on Korea's part to try to accommodate most of the Commission's concerns.

However, in spite of these developments, many important areas of concern to the Commission remain unresolved. Non-ROK nationals cannot own or operate trucking services to provide short-haul services in Korea. Non-ROK nationals cannot register their chassis in their names but must, instead, transfer this equipment to Korean-owned trucking companies. In addition, non-ROK nationals cannot operate their own branch offices in Korea. Instead they must appoint a Korean-national "general agent". Clearly, these restrictions seem to impose unfair and discriminatory restrictions on non-Korean nationals that, in my view, constitute conditions unfair to shipping within the meaning of Section 19 of the Merchant Marine Act of 1920.

Since the responses to the Commission's inquiry seem to reveal that conditions unfavorable to shipping exist in the Trade, I would have authorized the initiation of a notice of proposed rulemaking pursuant to Section 19 of the Merchant Marine Act of 1920 against the unfair shipping practices that exist in Korea with respect to Korea's restrictions in relation to 1) the operation of branch offices, 2) short-haul trucking, and 3) equipment registration issues.

STATEMENT
OF
VICE ADMIRAL WALTER T. PIOTTI, JR., USN
COMMANDER, MILITARY SEALIFT COMMAND
BEFORE
THE SUBCOMMITTEE ON MERCHANT MARINE
ON H.R. 4200, MARAD/FMC AUTHORIZATION
FOR FISCAL YEAR 1989

23 MARCH 1988

Mr. Chairman, members of the Subcommittee on Merchant Marine of the House Committee on Merchant Marine and Fisheries. I appreciate the opportunity to participate in this hearing on the Fiscal Year 89 authorization for the appropriations for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

The Military Sealift Command, as the single manager operating agency for ocean transportation (Sealift) within the Department of Defense, has a vital interest in the health and vitality of the U.S. Merchant Marine and in the authorizations for maritime programs you are now considering.

These programs are essential to the Military Sealift Command in its mission to provide strategic sealift for the Department of Defense in peace and war, as MSC is dependent on the necessary U.S. maritime industry ships, people and industrial facilities being readily available at all times in order to successfully carry out its taskings.

To understand the close working relationship between the U.S. Navy's Military Sealift Command and the U.S. maritime industry, it is necessary to understand how MSC fulfills its mission.

In 1949, the Secretary of the Navy designated the Military Sealift Command as the single manager operating agency for ocean transportation, charging it with the movement of materiel and supplies for our armed forces and other government agencies in peace and war. The U.S. flag merchant marine is indispensable to fulfillment of this mission as all of the present peacetime cargo, as well as the majority of the wartime cargo, is carried by commercial shipping.

Strategic sealift is of such importance to this nation's defense strategy that in March of 1984, it was incorporated as the third function of the Navy, joining the long-standing functions of sea control and power projection.

In addition to the carriage of cargo, MSC is globally engaged in two other primary missions:

Direct Fleet Support -- MSC's Naval Fleet Auxiliary Force of 39 ships provides fuel, ammo, food, supplies, spare parts, towing services and ocean surveillance to combat ships at sea.

Special Mission Support Force -- 22 ocean survey, research, cable, and other ships support a diverse variety of worldwide Navy operations.

The transportation of cargo, or strategic sealift, is that mission which is of principal concern to this committee as it is almost solely dependent on a viable U.S. Merchant Marine. In conducting the strategic sealift mission, MSC currently employes 68 contract ships in point-to-point carriage to meet government peacetime ocean transportation requirements. In addition, significant cargo tonnage is booked on regularly scheduled liner ships under MSC's liner agreements for the major trade routes.

Strategic sealift must have the capacity to deploy and sustain military forces whenever and wherever needed -- as rapidly and for as long as operational requirements dictate. The essentiality of this requirement demands national commitment for the fragile world peace enjoyed today is capable of spontaneous eruption at any time and this nation will remain in the forefront of every struggle to maintain world peace. And as history has shown in recent decades, when trouble erupts, naval and maritime forces have become the forces of choice.

Events in the Persian Gulf are but the latest reminder that this nation, with its global concerns and commitments, relies most heavily on its seapower--both Navy and maritime forces--to defend its global interests.

Today's military forces are in an improved state of readiness. They are better manned, more alert, better trained and more capable of response than at any time in the recent past.

Our Navy is in first-rate condition, with more and better ships, with far better logistical support and a quality of personnel that is unmatched anywhere, at any time.

Today's Navy is ready and capable of responding to any crisis or contingency that might erupt anywhere in the world. However, our ability to respond to contingency -- particularly a sustained contingency--is dependent not only on the readiness and strength of our Navy and the other services, but on a strong merchant marine as well, as over 95 percent cargo and POL needed to support these forces must be carried by merchant ships. Thus, the nation's overall ability to carry out the national strategy is degraded by the declining condition of our maritime industry.

Forty of our 42 allies are overseas, and today, a serious shortfall in ships, both in numbers and type, is projected and will grow beyond 1/2 million deadweight tons by 1992. Similar shortfalls exist in our tanker inventory where the projected shortfall to meet military requirements will grow to 35 handy-size equivalent tankers at the same time.

The precipitous decline of our Merchant Marine is the result of a worldwide excess of tonnage, compounded by high U.S. construction and operating costs and foreign protectionist measures. At the end of World War II, the United States had the strongest maritime fleet in the world--about 5,000 ships. Today,the United States flag fleet consists of fewer than 500 ships and about 100 of those are laid up.

This is a number marginally inadequate to support the national strategy at this time. The situation will grow worse in the future.

The containerization of cargo and the construction of more commercially viable larger ships have also influenced strategic sealift readiness, as today's larger ships cannot gain access to some militarily required ports and much of our outsized military cargo, particularly unit surge equipment, does not lend itself to containerization. Breakbulk ships, the traditional military cargo transports, which were totally compatible with military equipment, are being phased out of commercial operation as being too expensive to operate.

Thus, not only are we faced with a sharp decline in the number of U.S. flag merchant ships and crews--we also must contend with a pronounced shift toward ships that, while commercially competitive, are less militarily useful.

To help offset this lack of adequate numbers of militarily useful ships in the merchant fleet, the Navy has initiated several sealift enhancement programs.

I would hasten to emphasize that these programs are near-term supplements rather than final solutions to existing shortfalls in merchant ships and manpower.

The U.S. Flag Merchant Marine requires a broad approach. I hope that this subcommittee and other Congressional committees will work during this and subsequent sessions to address this problem using the most efficient and cost-effective approaches possible.

ADDITIONAL QUESTIONS SUBMITTED BY MR. JONES AND ANSWERS FROM THE DEPARTMENT OF THE NAVY

Mr. JONES: You made no mention in your testimony of the recent transfer of funding for the Ready Reserve Force (RRF) to MARAD. Do you agree with the Administration directive that funding and management functions for the RRF should be consolidated within MARAD?

Admiral PIOTTI: As part of that decision process, the views of the Department of Defense were solicited, considered and, in part, incorporated in the OMB passback guidance to both the Department of Defense and the Department of Transportation. The Department of Defense will comply with that guidance.

Mr. JONES: I understand the MSC's concern with balancing budgetary constraints against its need to procure quality shipping services. I have heard that some carriers that do not own vessels are submitting and winning bids for carriage of preference cargo. Is this practice damaging established U.S. carriers that may have a higher overhead, but that will be around for the "long haul"?

Admiral PIOTTI: Only companies that are vessel operating common or contract carriers are eligible to compete for the ocean transportation of preference cargo. All companies must clearly demonstrate in their offers, prior to a contract award, that they have adequate U.S. flag vessels to perform the contract services or will have such vessels to begin the service offered as evidenced by a firm commitment or explicit arrangement to obtain such vessels. Companies can obtain vessels by ownership, lease, or charter. The practice of offering in other than owned assets is a practice which has been employed by "established" as well as "new entrants" to the trade. Over time, both have remained for the "long-haul." Additionally, all companies must demonstrate, up front, adequate expertise to fulfill the contract if awarded.

Mr. JONES: The press has reported MSC's objections to the Sea-Land/Trans Freight Lines/Nedlloyd charter arrangement with the ex-United States Lines vessels. Please highlight the major issues confronting your agency on this issue, and why you feel the arrangement should not be permitted.

Admiral PIOTTI: To clarify DOD's position, we did not object to the agreement itself, which was obviously prompted by business and marketing strategies of the companies involved to which MSC is not privy. While we are pleased that the ex-U.S. Lines ships will continue to operate under the U.S. flag and provide jobs for American mariners, we are disappointed that the agreement involves the charter of these very competitive U.S. ships to foreign companies, rather than to other U.S. flag companies. Given the Sea-Land arrangement with Trans Freight Lines and Nedlloyd, our specific objection to the agreement relates to the provision that precludes these companies as U.S. flag operators from competing with other U.S. carriers for the carriage of DOD cargo. This provision, we believe, violates the Shipping Act of 1984 and allows Sea-Land to significantly restrict competition and reduce potentially available U.S. flag transportation services for DOD cargo, which I expect will increase rates, and, therefore, costs to the taxpayer.

To the extent possible, DOD uses commercial ocean liner services for the ocean transportation of its cargo under the same terms and conditions as commercial users. If foreign shipping companies are to be free to use U.S. flag ships to compete with U.S. flag shipping companies for commercial cargo, they should likewise be free to compete for DOD cargo with those U.S. flag ships.

ADDITIONAL QUESTIONS SUBMITTED BY MR. ANDERSON AND ANSWERS FROM THE DEPARTMENT OF THE NAVY

Mr. ANDERSON: You are well aware that OMB recently clarified MARAD's authority to operate and maintain the Ready Reserve Force (RRF). In your testimony, you alluded to the Navy's concerns and willingness to do something about our Nation's shortage of sealift. Since the RRF is now in MARAD's hands -- both operationally and financially, what does the Navy intend to do about America's shortage of sealift? Certainly, the Ready Reserve Force is but a small portion of the sealift this country may need in the event of a major conflict.

Admiral PIOTTI: The Navy as the Department of Defense single manager for ocean transportation (sealift) will continue to make maximum use of the U.S. flag fleet to ensure the existing fleet's continued viability. In addition, the Navy in conjunction with the Department of Defense is reviewing the initial findings and recommendations of the Commission on Merchant Marine and Defense to determine the Department of Defense's role in the revitalization of the U.S. merchant fleet to ensure sufficient sealift assets will be available in contingency and war.

Mr. ANDERSON: What is the Navy's official position regarding the Administration's proposal to require all students attending our state maritime academies to accept a position in the Naval or other Armed Forces Reserve in order for a state academy to receive federal funding? Has MARAD consulted the Navy on this proposed requirement?

Admiral PIOTTI: The Navy supports the Adminstration's proposal, as stated in the Maritime Administration Appendix to the FY-89 Budget, which requires that funding of State maritime academies be contingent, in part, on candidates entering a merchant marine officer preparation program and applying for and accepting, if offered, appointments as commissioned officers in the United States Naval Reserve including the Merchant Marine Reserve, the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States.

While not initially queried on this initiative by MarAd, the Navy supports the Administration's proposal.

Mr. ANDERSON: In your testimony, you state the Navy's serious concern with the alarming decline in breakbulk ships as American ships become increasingly containerized. Further, you indicate that, to deal with this problem, the Navy has initiated several sealift enhancement programs. Could you please elaborate on these programs?

Admiral PIOTTI: The Navy, back in 1982, initiated several stop-gap programs which were aimed at alleviating, or helping to alleviate the shortfall in sealift. Those programs fell into four categories: platforms, platform improvements, delivery and console equipment ship modifications, and general ship modifications.

These programs include the Ready Reserve Force, Fast Sealift Ships, Maritime Prepositioning Ships, crane ships, aviation logistic support ships, hospital ships and Afloat Prepositioning Force ship procurement and conversion/modification programs as well as the Merchant Ship Naval Augmentation Program, Sealift Enhancement Feature and Container Over The Shore programs for which the Navy expended $5.5 billion during the period 1982-87. During this same period, the Navy infused commercial carriers with more than $13.5 billion for the charter, operation, and carriage of military cargoes.

PREPARED STATEMENT OF THE PRESIDENTS AND SUPERINTENDENTS OF THE MARITIME ACADEMIES/COLLEGES OF CALIFORNIA, NEW YORK, MAINE, MASSACHUSETTS, THE GREAT LAKES REGION AND TEXAS, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE ON 23 MARCH 1988

We, the Presidents and Superintendents of the State Maritime Academies/Colleges of California, Maine, Massachusetts, the Great Lakes Region, New York and Texas, appreciate the opportunity to testify relative to the Department of Transportation's proposed budget for the Maritime Administration's (MarAd's) program in maritime education. We are deeply concerned that the changes sought by the Administration in the Federal Maritime Education and Training Act of 1980 will reduce our effectiveness, control our admissions and graduation requirements, create unsafe practices, add to the Federal Government's liability and thus limit our ability to attract young men and women for a career in our critical Maritime Industry. The Administration's proposals are more costly to the Federal government and might kill the State Maritime Academies.

You will recall that the President's Budget Proposal for fiscal year 1987 proposed to eliminate all funding for the State Maritime Academies except the Student Incentive Payments (SIP) for Cadets already under contract in the U.S. Naval Reserve/Merchant Marine Reserve. For fiscal year 1988, the President's Budget Proposal, recommended total elimination of all funding and the lay up of our training ships upon completion of the in-year training cruises. MarAd's proposals this year are to control our admissions and graduation requirements and implement a more costly ship sharing plan which has not yet been established as desirable or feasible. These proposals are obstructive, divisive, raise legal and constitutional questions, and/or are impossible to meet. Through the wisdom of the Congress the last two years, funding was restored although at a reduction of 24% over previous years' funding and the training ships were retained at the deep water State Maritime Academy piers. We ask for your support again so that we can continue to meet essential national needs.

The FY 1989 Budget Proposal for MarAd contains several language provisions that we believe you will find to be in contravention to the House Rules. Specifically, the language contains restrictive provisions which are beyond existing law governing the use of the funds requested for appropriation. The restrictions:

1) end the U.S. Naval Reserve/Merchant Marine Reserve (USNR/MMR) Student Incentive Program by phasing it out as the moneys are shifted to the Assistance Payment paid to each Academy under a formula yet unspecified,

2) make application for and acceptance, if offered, of a USNR/MMR Commission a prerequisite to graduation,

3) require, without any analysis and study as to cost-effectiveness and feasibility, that the State Maritime Academies commence more costly ship sharing in late 1989,

4) dictate that graduates may not be awarded degrees by the States until they have passed the Coast Guard license examination,

and

5) disallow Federal funds and the use of Federal ships for training purposes if 2) above is not observed.

These restrictions clearly exceed the authority of the appropriations process and encroach upon the jurisdiction of the authorizing committee to establish a policy and program framework. The proposed language also changes the application of existing law. As such, this represents legislation on an appropriation bill, which is a violation of Clause 2, Rule XXI. The establishment of restrictions upon receiving funds or use of vessels is stated clearly in the enabling legislation for the establishment of Federal support for the six State Maritime Academies (46 USC 1304):

> "As a condition to receiving any payments or the use of any vessel under this Section, any State Maritime Academy shall:
>
> 1) provide courses of instruction on navigation and marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations, being introduced to the Merchant Marine of the United States, and
>
> 2) agree in writing to conform to such standards for courses, training facilities, admissions, and instruction, as are established by the Secretary after consultation with Superintendents of Maritime Academies." (Emphasis added.)

The proposed appropriation language in the President's Budget dictates the conditions upon which the funds are to be used, but makes the determination of the use of the funds solely at the discretion of MarAd. The agreement in writing after consultation with the Superintendents has been excluded, which represents a change in existing law.

Also, requiring acceptance of a USNR/MMR Commission by all graduates as a prerequisite to graduation runs counter to 46 USC, Section 1304(a) which states, "The Secretary shall cooperate with and assist any State Maritime Academy in providing instruction to individuals to prepare them for service in the Merchant Marine of the United States." Subpart A of 46 CFR, part 310.4(c)(5) states, "the training ship is furnished by the Maritime Administration for the purpose of training young men and women to become officers in the Merchant Marine of the United States." Clearly training for the Merchant Marine, not the Navy, is specified and required.

Specifically, we are seeking the following actions through the Subcommittee:

a) We request that clear guidance be given to MarAd to ensure that ship sharing is studied to determine its cost-effectiveness, desirability and feasibility and that it not be implemented without the approval of the authorizing committees of Congress. Costs should be carefully analyzed. Safety, Federal liability, quality of training and loss of the ships which are critical national assets should also be investigated.

b) We request that the present U.S. Naval Reserve/Merchant Marine Reserve Commissioning Program be left in place and not be phased out until some mechanism for ensuring the availability of an adequate number of trained Merchant Mariners in time of national emergency is worked out.

c) We request that Coast Guard licensing not be required as a condition for graduation from a State program.

d) We also request a change in the appropriation to $10 million vice the $8 million proposed. This will keep the State Maritime Academy system alive. Eight million dollars is insufficient and represents a 33% reduction over the annual appropriation prior to the recent emphasis on our Nation's deficit.

It is relevant to note that the Second Report of the Commission on Merchant Marine and Defense recommended "that the President, through the Executive Branch, should ensure that Federal departments and agencies refrain from any policies and programs that are contrary to the national maritime policy and detrimental to the Maritime Industries."

Despite this recommendation, the Office of Management and Budget (OMB) and MarAd through their present proposals in regard to the State Maritime Academies are attempting to institute policies with no study and on no cost-effective basis that will severely limit the ability of the academies to produce well trained graduates. In fact, these proposals may kill the State Maritime Academy system. We are the recruiters for the Industry and these policies directly impact on our ability to attract the youth of America, the individuals the Commission on Merchant Marine and Defense clearly points out are lacking in the Industry today.

The Commission, as well as the 1986 Navy Merchant Marine Manpower Study and GAO 1986 report on the Ready Reserve Force, clearly points out that unless actions are taken to correct the downward trend, the number of mariners required to be available to man our ships by the year 2000 will be reduced by one-half. Today about half of the American seafarers are at least 50 years of age. Young vital dedicated men and women are needed to replace them.

The Commission on Merchant Marine and Defense states in simple language that there is a need to preserve the capability to train licensed personnel in state training facilities. Why in the name of national interests and security does MarAd attempt to hamper the ability of the State Maritime Academies to perform their mission? Instead of taking action to assist as strongly recommended by the Commission, they do the exact opposite. It is difficult to conceive that the Administration wants to take this action on one hand, while on the other hand, the President himself in the January 1987 report entitled National Security Strategy of the United States specifically cites, "the lack of Merchant Mariners in the near term could impede our ability to adequately project and sustain forces by strategic sealift." (Emphasis added.) As pointed out, the 1986 Navy Merchant Marine Manpower

Study and relevant studies find the United States will be critically short of personnel to man just the Ready Reserve Force and U.S. Flag ships by 1992. This finding of a shortfall is made with the assumption that the State and Federal Maritime Academies will continue to produce the present annual output of licensed officers. It would seem the left hand doesn't know what the right hand is doing. The signals are very confusing especially to the Cadets presently enrolled and prospective applicants.

Under the 1980 Federal Maritime Education and Training Act, the Federal Government provides funding to the State Maritime Academies for:

1. A training ship plus ship's maintenance/repair and fuel money when authorized (Great Lakes excluded) to allow our Cadets to meet the Federally mandated "sea time" license requirements.
2. $100K per school for administration of a State Nautical School.
3. Student Incentive Payments ($100/mo) for students accepting commissions in the U.S. Naval Reserve/Merchant Marine Reserve.

The State Maritime Academy system is our Nation's most cost-effective system to produce licensed officers, officers already noted by every study to be in short supply. The President's Budget Proposal intends to put the State Academies on a parity with the U.S. Merchant Marine Academy whose budget this year is proposed at $23 million, producing approximately 200 graduates per year. Over the last several years, the State Academies have produced on the average over 700 licensed officers per year at an average cost of $9 million/year. While the Commission is recommending a reversal of the decline of the Maritime Industry, this cost-effective system will be forced into decline by the Administration's proposals.

Essentially every year subsequent to the 1980 Federal Maritime Education and Training Act, changes have been made or proposed in the State Maritime Academy U.S. Naval Reserve/Merchant Marine Reserve Program. These changes have ranged from increasing the service obligation to total elimination of the program to introduction of changes which would make it the most binding commissioning program in our Nation; requirements that would be much more binding than at the Federal Service Academies. These changes or proposed changes have impacted on our Cadets, students who are all paying for their education and are all taking required naval science courses, some of whom are voluntarily pursuing a Reserve commission option. The dust has never settled on this program.

The 1984 change of Reserve obligation from six to eight years was followed in 1987 by a proposed change in the point of commitment (obligation) in the program from the beginning of the junior year to the sophomore year. The initial trauma on the part of the students from this change or proposals has not yet run its full course in the appropriate input cohorts. Much of the student concern regarding the most recent proposal which requires all students to involve themselves in a program with a six year obligation was because the program would be more stringent than now, eliminate all freedom of choice, and does not provide any quid pro quo. Understandably, Cadets paying for their own education reacted accordingly.

The concept of a subsidy or incentive payment to foster a steady flow of inputs into a Merchant Marine Reserve program was created in 1958 with the establishment of a $600 annual payment. Originally these payments went to the institution to help defray the cost of subsistence, uniforms and other costs. In 1976 the payments were increased to $1,200/year and in 1982 these payments were changed to Student Incentive Payments (SIP), were made directly to the students and the Reserve obligation was changed from six to eight years. In 1987 and 1988, the Administration attempted to eliminate support for students in this program at State Maritime Academies on the argument that the United States had a surplus of trained mariners and that the Federal Merchant Marine Academy meets the national requirements for annual inputs. This was in the face of GAO, Navy and Commission on Merchant Marine and Defense's pronouncements of projected shortages in licensed mariners. Additionally, the President's own strategic assessment last year cited a shortage of maritime labor as a growing problem.

The President's 1989 budget now proposes to hold all Federal support for the State Academies, including any use of training ships and the funds previously earmarked for those accepting an eight year Naval Reserve obligation hostage to the requirements that the States establish as a condition of graduation from their Academy that each graduate, among other things, apply for and accept a Reserve commission. We have then gone from none required in 1988 to all are required in 1989. This has been done at no projected saving in funds. Indeed, the costs will have to be much greater because there will be a manifold increase in those serving their obligation who must be paid and trained by the Navy during their years of training obligation. Incidentally, the Navy was never contacted on this initiative. They were not in on the planning.

There must be a hidden agenda here. Is it the hope by OMB that no Academy can install the eight year Reserve obligation as a condition for graduation and make it work? Is it mainly to remove the administrative burden and cost from MarAd and shift it to the States and the Navy? Is it that the Congress might just pass the proposal into law and that the States may then not be willing to impose the demand for Federal service obligation on their tuition and fee paying students?

We think this is a bad proposal. We think it was dreamt up in OMB and did not get much cerebral processing. We think that if it is supported by the Congress in budget legislation, that it will severely reduce the size of the individual State Maritime Academies and thus jeopardize their continued existence at a time when, as the Commission on Merchant Marine and Defense points out, they are needed to produce mariners today and as a resource to be used in time of national emergency to increase the production of officers.

The Merchant Marine Reserve program should remain a volunteer program for those students who are attending State Maritime Academies and paying their own tuition. Freedom of choice is an important concept which should be preserved here.

Requiring all Cadets to apply for commissions will exclude from officer status in our Merchant Marine all citizens who may be too tall, too short, too old or who otherwise are unable to fit within the Navy's commissioning standards - which have been established to meet Navy, not Merchant Marine, needs or simply do not care for an affiliation with the Navy. Many of our Academies have historically attracted larger numbers of so-called "non-traditional" students who are older or otherwise unacceptable for Navy commissions. First, the physical requirements to obtain a Coast Guard license are much less stringent than those to obtain a commission in the Armed Forces; and, second, such a requirements raises questions as to compliance with Section 504 of the Rehabilitation Act of 1973, barring discrimination on the basis of physical handicap, and the Age Discrimination Act of 1975, as amended, barring discrimination against those of age 40 or older. MarAd claims that we will be able to continue accepting such students because "the Navy will reject their applications for commissions" and they will be free of any government obligation. This approach is devious, insincere, immoral and downright foolhardy! How can we propose at the outset of any recruiting activity that the candidate be prepared to sign commissioning application documents knowing them to be false or inappropriate? Beyond these moral and practical issues, however, is the fact that State Maritime Academies exist under law to train officers for the Merchant Marine, not the Navy!

We can understand the interest in making the SIP program more effective, efficient and reducing its administrative burden and could work with MarAd to that end if given the opportunity. The Administration's proposal will not do that and will result in reduced Reserve and active duty accessions from the State system.

Linking a Merchant Marine Reserve Commission to graduation also links it to admissions. By doing so, young men and women who are physically qualified for a Merchant Marine Officer's license but not a Naval Reserve Commission will in all probability not apply. Merchant Marine Officers' licenses have never been tied to a Naval Reserve Commission. Why start with the recruits when all studies point out they are needed as Merchant Marine Officers now. Why reduce the input? We should be instituting policies that will improve the manning situation, not hinder it.

OMB and MarAd's linkage of the use of a training ship to the Merchant Marine Reserve program by the Administration also is a considerable departure from the previous intent of the Congress. As noted previously, section 1304 of the Maritime Education and Training Act states that the purpose of the academies is to provide instruction to individuals to prepare them for service in the Merchant Marine. Nowhere is a Naval Reserve Commission even implied. As noted in part 310.4(a)(5) of 46 CFR, the ships are specifically provided for the training of licensed Merchant Marine Officers. No mention is made of the production of Naval Reserve Officers. It is urged that the Congress reject that linkage.

MarAd's new proposal to control admissions/graduation requirements for the State Academies, conditioning them to approximate the Federal Merchant Marine Academy, is out of order. Such a provision raises Constitutional questions which under the Tenth Amendment addresses States Rights guarantees. If MarAd was to have its way, it would be imposing an "affirmative obligation" on the States that contains Maritime Academies to train only people who would enter the MMR program. Furthermore, the Federal Government has not pre-empted the States in the operation of State post-secondary educational facilities. It is the prerogative of the States and the Academies' directing bodies, that provide the majority of the funding, to control these requirements. On the other hand, MarAd has every right to control admissions and graduation requirements at a Federally owned, Federally funded and controlled institution. Of course, MarAd can write standards for the State institutions' professional curriculums and sea-time equivalencies for Federal Merchant Marine Officer's licenses; overall academic control is a matter for the sponsoring State.

Levying the admissions/graduation requirement on all Cadets or accepting a commission, if offered, without any quid pro quo such as SIP and without any "enforcer" is folly. Why should Cadets, who receive nothing in kind and who pay for their own tuition, room, board and books, want to become involved with this long-term commitment? This requirement eliminates non-physically qualified applicants who are physically qualified for the Federal Merchant Marine Officer's license but not a Naval Commission. These appear to run counter to other Federal statutes offering protection for the physically impaired and those over 40 years in age, individuals that the Commission on Merchant Marine and Defense notes are sorely required in the Maritime Industry. The States who must maintain the State Academies on a paying basis can not accept requirements which will limit the number of students. This is not a Federal prerogative.

It is a mistake, in our view, to experiment with every aspect of Federal support to the State Academies when the system in being has successfully served industry and the Nation in peace, recession and war and at very low Federal cost for 114 years. We still remain the cheapest way for the Federal Government to achieve all of its objectives with respect to the education and training of licensed Merchant Marine Officers and the development of a Merchant Marine Reserve. As the Commission on Merchant Marine and Defense recommends we should not have policies or new policies introduced which impact on the Maritime Industry. MarAd's proposed changes impact negatively on the recruiting and training baseline of the Industry.

MarAd's proposed ship sharing order without a feasibility and cost-effectiveness study, provides a total of two training ships to provide a minimum of nine weeks of underway training time for five State Academies, four weeks between cruises for orientation, safety training and necessary voyage repairs, and several weeks for an adequate shipyard availability. MarAd has already admitted the costs would be $12 million, $3 million more than is already being appropriated. Federal funding would be required for ship relocation costs associated with moving the ships among the schools, necessary voyage repairs and annual maintenance requirements and transportation costs for each academy training staff, crew and Cadets as necessary to facilitate ship sharing. In addition, MarAd would manage and pay for a nucleus shipkeeping staff to supervise ship maintenance and operations and to facilitate the transition of the ship from school to school. Thus MarAd would become a training ship fleet operator with all the related expense, responsibility and liability. Some of the flaws in this proposal or critical elements of a decision to ship share are elaborated in Appendix A.

We seriously doubt that MarAd has considered the additional costs that will now be the responsibility of the Federal government and also the additional costs which will necessarily have to be passed on to our Cadets (students).

The sharing of two training ships by five academies which are geographically widely dispersed and are each dependent upon regular access to a training ship to meet International Maritime Organization and U.S. training and licensing requirements is in our view not feasible. This conclusion was previously reached by MarAd as on 8 February 1984 in a hearing before the House Subcommittee on Merchant Marine, the then Maritime Administrator addressed ship sharing. The following is a direct quote: "First of all, let me say that the reviews which were conducted over a year ago about the possibility of consolidating have proven to be unrealistic and unfeasible, and I intend to keep a good training ship for each of the schools." The study referred to is on file in the Maritime Administration's library. Release has been requested under the Freedom of Information Act. To date it has been denied. Is MarAd hiding something?

As discussed in this Hearing last year, in lieu of ship sharing, RAdm J. Ekelund, USN (Ret.), Superintendent at California Maritime Academy has developed what we believe is a cost-effective plan that meets the needs of the State Maritime Academies and the Federal Government. This plan suits the smaller schools through use of ships in the Ready Reserve Force (RRF), thus ensuring that the smaller maritime academies can have replacement ships. This proposal has been submitted to MarAd resulting in no reaction.

This proposal is based on the assumption that (a) a major concern of the Administration is the ultimate replacement cost of training ships, (b) the Federal Government can make a long-range commitment, and (c) now that MarAd has been given control of the RRF that they would agree to the conversion of some RRF ships in first class condition to training ships with the permanent loss of about 20% of their cargo carrying capacity and the substitution therefore of troop space for 300 to 400 Cadets and staff or that modular conversion is feasible.

If these assumptions are valid, then it is possible with an annual budget in FY 90 of $12M declining to a steady state budget in FY 96 of about $6.2M in constant dollars to replace the training ships from government-owned RRF assets and continue replacement ad infinitum and provide necessary funding to the State Maritime Academies. This plan is less costly than MarAd's proposed ship sharing plan.

The ship class looked at by California Maritime Academy was the ex-FREDERICK LYKES, a C-4. The conversion is essentially to #5 hold with two decks added above it. This conversion would cost about $10 million and would provide galley, messing, berthing and sanitary facilities for 300 to 400, additional staterooms, expanded wardroom, sewage treatment, evaporator and air conditioning capacity, lifeboat additions and classroom space.

A major premise of the alternative is that the RRF ships are currently being maintained and outported at an annual cost of about $1.2 million each, breakouts cost an additional $1 million. After conversion and while being operated as training ships, these same funds would be more than adequate for long-term maintenance. Indeed, savings would be achieved through the free outporting at the academy piers and the Cadet-provided labor contributing to ship maintenance. The funding profile is shown in Appendix (B).

Although our Merchant Marine has been declining, the requirements for new officers is brighter now than it has been for years. Data from the 1986 Navy Merchant Marine Manpower Study and the Commission on Merchant Marine and Defense points out that a significant number of seafarers are of age 59 or greater. Numerous retirements have been evidenced and more are imminent. It is not uncommon for our Placement Offices to receive telephone calls for positions they can't fill. Our afloat employment of the recent graduating classes is approximately 50% while about 20% are employed in the industry ashore and another 12% are on active duty in the Navy, Coast Guard, NOAA, etc. This amounts to over 80% of our graduates involved in the Industry or the uniformed services with prospects getting better.

A major objective of this particular Administration is to remove the Federal Government from unnecessary or inappropriate endeavors and return functions to the States. But, does it make sense to modify a true partnership with the States and the Cadets whose cost-share is significantly more than the Federal Government's?

The total number of graduates per year from the six state and regional academies is about 700. From among those graduates who accept Reserve commissions, approximately 80 volunteer for active duty in the Navy or Coast Guard. Each of these accessions is achieved at maximum total cost in Student Incentive Payments of approximately $4,500 over four years, a considerable savings to the Nation over any other source of Mariners fully qualified for immediate sea duty and leadership roles. This is our Nation's most cost-effective commissioning source. For our island nation, so dependent upon the sea and world commerce, this is a very valuable contribution to our security. Our students pay tuition and fees for their education, including training cruises, naval science courses, and attend eleven month academic years which deprive them of the opportunity for summer employment. They earn Federal licenses along with their degrees while in a uniformed and disciplined environment. The respective states and industrial sources contribute the balance of academy expenses over tuition. The Federal Government's share, including student subsidies, ship maintenance and repair and fuel oil, is cost-effective.

This sharing of effort represents one of the best bargains available to the Government, and yet the Administration annually seeks to reduce the maritime education budget by not including or modifying support for the State Academies. This very small savings to the Federal Government imposes a severe training hardship on our institutions while reducing the incentive to develop an adequate number of required Merchant Marine Officers and a Merchant Marine Reserve component of the U.S. Naval Reserve. It runs totally counter to the recommendations of the Commission on Merchant Marine and Defense.

We submit that the continued existence of our State supported institutions assures our Nation's most economical, cost-effective method of producing Merchant Marine officers. We believe that our students return far more to the economy and the National defense needs of our Nation than they cost and that the survival of the State Maritime Academies is in the national interest. We have been tasked with this responsibility for 114 years.

The Commission on Merchant Marine and Defense, in addressing Maritime Education and Training, expressed great concern for the possible loss of the six State Maritime Academies as a result of lack of Federal support. The Commission stated that the closing of these institutions would eliminate capabilities that could not be easily reconstituted even if in time of crisis. If a United States Merchant Marine is required for national and economic security, the training pipelines must remain open and not be hampered by unrealistic and unfeasible Federal policies. The Commission recommended that the expenditure of Federal funds for the Maritime Industry should be justified and the costs should be borne by the nation as a whole. The United States must take adequate measures to ensure an adequate supply of mariners. Heroic measures will be necessary. Let us reverse these trends by positive government action, not misdirected action.

The youth of our Nation need a clear signal that the Maritime Industry is not dead. They are willing and ready to go to sea. We earnestly request that the opportunity to do so through cost-effective education and training at State Maritime Academies be continued. We also believe this system should not be modified so that it may remain in place for National Security as a necessary expansion base.

We would be pleased to assist you in any studies you may wish to undertake with regard to the issues that we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience.

STATE MARITIME ACADEMY SHIP SHARING
PROBLEMS WITH THE MARITIME ADMINISTRATION'S PROPOSAL

Lack of Analysis - The proposal is made with no feasibility study or input from the State Academies or the Department of Defense (Navy). There has been no comprehensive research or comparative analysis with the present system including merits and problems. Alternative and perhaps more cost-effective plans have not been explored. The ability to make shipsharing work in the real world should be considered in a complete feasibility study. MarAd is presently conducting a study but it is an implementation study not a feasibility study. The feasibility study requested by the House Appropriations Committee during the last session is not being done. MarAd, by edict, plans to commence ship sharing in late 1989. By MarAd's own admission, it is a more costly program. The proposed program is not only more costly to the Federal government but the States and Cadets (students) as well.

Safety - The Cadets are the crew and would be inexperienced. Presently the ship they are going to take to sea is programmed into academic and professional training while the ship is at the campus pier. The proposed plan does not provide adequate time (one month) nor does it consider that during the same period stores must be loaded and the Cadets must move aboard. Storing of the ship requires all hands. Having an alternate ship, if provided, at the campus for training, particularly in regard to the fire safety, damage control and propulsion plant indoctrination, does not help. The Cadets must know where the valves, piping, hoses and equipment are on the ship they take to sea, not the one alongside the pier. You simply can not take college students out of a shore environment, put them on a complex piece of equipment like a ship and sail off.

Also, the plan forces the State Academies to hire temporary licensed officers and crew to replace the present employees who will be laid off as a result of ship sharing. The temporary people will most likely not be familiar with the ship nor the Academies' training methodology, not even the Cadets themselves. The present full time officers and crew are the key to safe ship operations by the Cadets. This situation would be exacerbated if MarAd has an excessive turnover of personnel assigned to the nucleus crew. There is even the possibility that the States will be unable to hire temporary crew because of their concern over sailing a vessel they are not familiar with. There are no other ships in our Nation that operate with up to 500 supervised youths.

Lack of Management Plan to Include Liability - The proposal does not deal with the Federal/State relationship in regard to responsibility, authority and liability. As presently mandated by 46 CFR Section 310.4(a)(5), the Federal Government is not liable for the present ships. The States have responsibility and authority. With a nucleus Federal crew, responsibility and authority are now shared. When the Jones Act is considered, the U.S. Government is open to greater liability.

The training of the Cadets and operation of the ship will most certainly suffer as in some cases Federal employees will have authority over State employees and in other cases it will be the other way around. The personnel practices of the Federal Government and each State do not coincide, not the least of which are grievance procedures and even holidays.

Financial Considerations - Using industry standard base costs for a seven person Federal nucleus crew, crew costs per ship would approximate $2,800/day or $1,022,000 a year. Contractual overtime normally is 60% of base pay. When maintenance and repair and port operations are considered, overtime is about 80% of base or in this case $817,600 more. Thus Federal nucleus personnel costs for the operation of two ships is close to $4,000,000/year especially when travel and per diem for the nucleus crew are considered. When fuel costs, nominally $300,000 per cruise, and consumables and other related cruise costs that the States now cover, plus transportation costs of Cadets and staff to and from the ship, i.e., California to Texas (it costs $177 one way to fly from San Francisco to Galveston, not including bus fares) are added (approximately $300,000) to the average maintenance and repair of the ships, $1.5 million, there is no cost saving.

Additional costs for placing two ships in proper condition as training ships plus lay up/disposal costs of the present ships have not been considered nor have MarAd's administrative costs for establishing a fleet operations staff ashore.

Costs are also not included to cope with a two ship berthing situation that develops if a State choses to keep another vessel alongside a campus pier. When the training ship arrives for the pre-cruise period, due to the fact that at most campus piers two ships can not be berthed, one of the vessels would have to be berthed or anchored elsewhere. This is a major cost item, even at anchor, as the auxiliary systems must be operational supplying steam and electricity. The ship must be manned with scheduled licensed and documented personnel.

Present five ship funding for maintenance, repair and fuel	$7.5 million
Two ship funding	
Crew	$4.0 million
Fuel	1.5
Consumables and related cruise costs	2.0
Transportation costs	.3
Annual maintenance and repair	3.0
Breakout for MSC exercises (2/year)	2.4
Fleet Operations Staff (MarAd)	.5
Projected Annual Cost	$13.7 million
Layup/Disposal of present ships	$4.0 million

Cadet Costs - Because the sea training period must be increased for the Cadets to become familiar with the ship, their costs will commensurately increase for tuition, where applicable, and board.

Scheduling - Two ship scheduling creates major disruption to academic schedules for many academies by putting them out of synchronization with high schools (input cohort) and other universities, colleges and community colleges. This affects transfer students in addition to first-time full-time students. Athletic schedules would also be impacted. This type of disruption can severely deter incoming students. They may opt to go elsewhere.

If a ship is delayed in overhaul or has problems, follow-on user schools have extreme scheduling problems due to the chain reaction. There is no fall back position. This situation would delay upwards of 500 to 600 Cadets from graduating on time and affect the required Federally mandated sea time of at least 1,500 Cadets.

Required NROTC cruise periods for the New York and Maine Midshipmen must be considered as Midshipmen must make Navy cruises in addition to their respective Academy training cruises.

The shared training ships will not be available on short notice to meet the Navy's troopship requirement for national security. It is conceivable both could be on a training cruise simultaneously.

Quality of Training - The unavailability of the specific ship that is sailed to be used as a laboratory platform, during the academic year directly affects safety and technical training.

The present tailoring of individual training ships to optimize the Academy's programs would not be possible. The quality of training year round will suffer. States can not put training aids, mock-ups, i.e. gas turbines, boiler simulators, etc., on the ships only to remove them after a cruise. This type of equipment must be used all year. Presently this type of equipment is available on the training ships whether they are at sea or in port. The proposed plan ultimately places MarAd in control of training as they control the ship. In addition, MarAd, because of this proposed control of the ships, could terminate the cost-effective State Maritime Academy system more easily. There is no security for the Academies. They would no longer have control of their programs. They may well decide not to have a program.

Loss of National Asset - The present training ships can on short notice help meet Navy's troopship requirement for national security. They are maintained by Cadets and the costs are shared by the States. The ships can be strategically located around our National sea coast with free pier space, and are not nested in a vulnerable Reserve Fleet. This cost-effective program would appear to accommodate our Nation's budgetary problems. As noted in MarAd's Fiscal Year 1989 budget, it costs approximately $1 million to activate a RRF ship on a 5 - 10 day notice. This past year, New York's training ship was activated on the same notice time frame at a cost of $300,000 for activation. New York's ship had to be activated as no other troop ship was available for the required exercises on the East Coast. There are none readily available. The Report of the Commission on Merchant Marine and Defense felt so strongly about the utilization of training ships as troopships they recommmended a "procure and charter" program for troopships to meet DOD's seaborne troop transportation requirement. Such troopships would be assigned to the State Academies as training ships.

Under ship sharing the availability of potential readily available military vessels would be reduced from five to two. The vessel availability would be nil thus causing major disruption to the State operated institutions in addition to impacting on National security.

Ship maintenance - The underway maintenance presently accomplished on board would have to be minimized in deference to more classroom and watchstanding training because of the lack of the actual ship alongside the campus pier during the academic year. A large portion of ship painting and other daily maintenance would have to be paid for at market rates to non-cadet labor. The ships assigned would not be new, thus requiring considerable continuing maintenance. Also, the cost-effective Cadet maintenance that is accomplished on the training ships between cruises would not be done as well and there is the loss of the various academy electrical, plumbing, woodworking and machine shops to be considered.

Would Cadets want to work as they do now on a ship that is not theirs? Shipboard priorities would necessarily have to change.

State Responsible Items - The proposed plan would call for accountability of Federal items, many of which previously were state responsibility, i.e. tools, paint, mooring lines, oils and greases, etc. However, it would be virtually impossible to account for State responsible items such as food, navigation training charts, sheets, pillows, blankets, etc. Ordering of these items for cruise would be extremely difficult, considering the short period when the ship is available before cruise due to the lack of knowledge of quantities that would be on board.

Other Issues - Maritime specialist personnel presently assigned to the ships would be terminated (retrenched) bringing in union involvement and State involvement in regard to retraining. This would certainly become an issue for the individual State Congressional representatives.

The faculties and staffs would certainly seek union involvement due to the changes in work schedules, vacation times, etc. Due to required changes in the contracts and the layoffs of ship personnel currently employed, there will be considerable union involvement.

There will be a negative impact on student morale and attitude.

MarAd's proposed concept is contrary to the National interests.

QUESTIONS SUBMITTED BY MR. ANDERSON, MEMBER, SUBCOMMITTEE ON MERCHANT MARINE TO THE CALIFORNIA MARITIME ACADEMY ON H.R. 4200, FISCAL YEAR 1989 MARAD/FMC AUTHORIZATION

Question 1. Admiral Ekelund, would you argue that it would be most cost-effective to set aside perhaps $3-to-$4 million a year for a replacement training vessel every five or so years rather than proceeding with the Administration's ship-sharing plan?

Answer: I have suggested for several years to MARAD that a long range plan for training ship replacement be developed and have recommended the creation of a replacement fund annually of 3 to 4 million dollars to allow the routine replacement. Further, I have recommended that replacement come from RRF assets which are already in excellent condition, are owned by the federal government, and for which money is currently spent to maintain, outport and occasionally activate. These funds are sufficient for maintenance of the training ship. Thus, the current funds for maintenance of the training ships over time would become the money for the replacement ship fund.

It is clear to me that this is a more effective way to attack the training ship operation and replacement than the methods heretofore used by MARAD and planned by MARAD.

Even excluding the use of RRF assets, if $4M were set aside for six years, the $24M (less than the cost of the procurement and conversion of the PATRIOT STATE--a 24 year old ship) could purchase a new, diesel powered, troop lift ship for the RRF which would meet sea lift requirements, last for 30 years, and serve as a state-of-the-art training ship. Such an approach would provide steady state replacement of all current training ships for $4M per year, would provide the best training ships and would augment the RRF capability. We can certainly do better for the good of the nation than the recent method of training ship replacement and the MARAD concept of ship sharing.

Question 2. As you well know, MARAD is in the process of developing an implementation and scheduling study rather than a feasibility study regarding its ship-sharing plan. That sounds to me as if MARAD is putting the cart before the horse. Don't you think it makes better sense for MARAD to consider the feasibility of ship-sharing before such a policy is implemented?

Answer: It is obvious that a feasibility study is the first step necessary in arriving at any decision about ship sharing. MARAD has a preconceived idea that a two ship sharing plan is best and has told some members of congress that. It seems reasonable that two ships can be operated and replaced cheaper than can five, assuming the same methods of replacement. But, the decision as to whether to ship share should not be made on the dollar cost alone but should rest on the feasibility of two ships reliably meeting the academic schedules of five accredited institutions and the quality of the training that would result from a ship sharing program. If it is not possible to reliably meet the at-sea training requirements of five institutions with two training ships, then such a concept should not be implemented. It is hoped that the authorizing committee for the MARAD budget will require the ship sharing study to be reviewed by them prior to any implementation.

Question 3. If students from the State academies are required to accept a Naval or other Armed Forces Reserve position in order for the academy to receive Federal funding, what kind of impact will that have on student recruitment and upon the graduation of critically needed merchant mariners?

Answer: The linkage of any federal support to a requirement that all students apply for and accept a reserve commission in order to be eligible to graduate was a complete surprise to everyone, including the Navy. Currently, about 60% of our graduates enter into such an agreement on a voluntary basis. The remaining 40% are not interested and do not receive any federal incentive payment. This seems a reasonable condition. The Navy and other services have for years been all volunteer forces. The OMB proposal is a departure from the volunteer concept. Some of our students just want to pursue careers at sea as licensed officers and pay tuition and fees to do it through a state academy. They would be forced to pursue a different career or take a six year reserve obligation. I believe if this policy is put in place, it will adversely affect our student recruiting, will reduce the numbers of licensed merchant marine officers and will fuel resentment among merchant marine officers of the Navy and become a divisive policy. I believe this proposed requirement is designed to reduce the output of the state academies and make it more difficult for them to remain viable. I believe the removal of all federal support to the state academies remains an agenda item for this administration's Office of Management and Budget staff. Any linkage of the use of a federally provided training ship to the production of reserve officers is not consistent with the purpose for which those ships are currently provided under law and should be rejected. A linkage of federal incentive payments to students to a reserve commission and commitment is, of course, appropriate and exists today.

GREAT LAKES MARITIME ACADEMY
Northwestern Michigan College
Traverse City, Michigan 49684
(616) 922-1200

RECEIVED
MAR 1 1 1988
Minority Staff
Committee on Merchant Marine
and Fisheries

March 3, 1988

The Honorable Robert W. Davis
1124 Longworth House Office Building
Washington, DC 20515

Dear Bob,

It was good to meet with K.C. Bell on 2/29 even if it was because our Academy funding problems haven't gone away despite the strong support you have given us in recent years.

Later in the day I met with other Academy Superintendents, MARAD officials, Congressman Walter Jones and staffers from Congressmen Bennett and VanderJagt's offices. The net effect was for me to develop a clearer appreciation of just what O.M.B. is trying to achieve by this year's revised approach to the State Academy funding issue.

In short, it appears to me that nothing has changed -- O.M.B. has the continued goal of trying to shut down the State Schools. This year their tactic is to include a moderate level of funding in the Budget, tightly constrained by conditions that are obstructionist, divisive and/or impossible to meet.

As you know, the FY89 Budget provides that as a condition of Federal support in any amount:

1. all cadets at all schools must apply for and accept if tendered commissions in the USNR Merchant Marine Reserve.
2. all schools must make achievement of a USCG license a graduation requirement.
3. the schools must agree to a training ship-sharing program as yet to be defined or devised by MARAD.
4. the Student Incentive Payment (SIP) program is to be phased out, with the moneys thus conserved being shifted to the cash Assistance Payment to each school under a formula as yet unspecified.

It is my view that this year O.M.B., like the mule that has been thumped on the head with a 2x4 three times running, has begun to modify its behavior to achieve its ends by political suasion rather than direct pressure.

Here's why it won't wash.

- Requiring all cadets to apply for commissions will exclude from officer status in our Merchant Marine all citizens who may be too tall, too short, too old or who otherwise are unable to measure up to Navy's commissioning standards -- which have been established to meet Navy, not merchant marine, needs. In our case, GLMA has historically attracted larger numbers of so-called "non-traditional" students who are older or otherwise unacceptable for Navy commissions. MARAD claims that we will be able to continue accepting such students, because "the Navy will reject their applications for commissions" and they'll be free of any government obligation. On brief reflection, this approach strikes me as devious, insincere, immoral and downright foolhardy! How can we propose at the outset of any recruiting activity that the candidate be prepared to sign commissioning application documents knowing them to be false or inappropriate?? Beyond these moral and practical issues however, is the fact that State Maritime colleges exist under law to train officers for the merchant marine, not the Navy!

- Requiring that graduation be conditional on receipt of a USCG license places the Federal government squarely at odds with State educational authorities. These schools are essentially State-funded and State-operated institutions, with program accreditation controlled by regional Associations based on mutually agreed educational standards. Degree requirements are strictly separate from licensing standards in the eyes of such Associations and governing State education authorities. I do not believe that any State will concede to "faceless Federal bureaucrats" the right to establish who may and who may not get a degree from a State institution.

- Ship-sharing issues are best addressed by those schools who operate training ships. I will note in passing that my ten years of professional experiences at Massachusetts Maritime Academy, Maine Maritime Academy and Texas Maritime College make plain to me that ship-sharing as it is now being conceived by MARAD will prove to be unworkable, inefficient, and more costly than the historically proven system of individual ships to serve each school.

- Shifting funds from the S.I.P. account to the Cash Assistance payment is very appealing to us here at GLMA, since our Federal support is essentially limited to that Assistance payment. As I discussed with K.C. Bell, I am strongly in favor of an increase in the Assistance payment to some level above the $100,000 that has been in place for some years now with no adjustment for inflation or the increasing real costs of training -- many caused by changing Federal requirements. I also advocate that the S.I.P. program be changed to be more workable than it now is, even to the point of cancelling it in exchange for an increased Assistance payment. However, the conditions O.M.B. now attaches to Federal support at any level are totally unacceptable here. I do not intend to be dissuaded from the unified stand we have taken with the other State schools by this nebulous promise of possibly greater immediate benefit to GLMA.

I firmly believe we must continue to stand together on this because O.M.B.'s approach is wrong for our country, our Great Lakes Regional industry, our nation's defense posture and the young people of this country who seek careers as mariners in our U.S. Flag Merchant Marine.

Bob, I deeply appreciate your continued support, and ask that you continue to direct your efforts toward obtaining an appropriate level of Federal support for all State Academys with particular emphasis on supporting realistic revisions to the S.I.P. program -- perhaps making it a Perkins Loan type arrangement -- and increasing the Cash Assistance Payment to the schools.

I look forward to seeing you in the coming months as the Budget process moves ahead.

Sincerely,

Jim

James F. McNulty
RADM, USMS
Superintendent

JM:con:lw

cc: State Academy Presidents & Superintendents
Dr. Phillip Runkel, NMC President
Admiral Willard Smith, NMC Board of Trustees
Honorable Guy VanderJagt
Mr. George Ryan, President, Lake Carriers' Association
Mr. Terry Bevels

RECORD

STATEMENT OF PHILIP M. GRILL,
VICE PRESIDENT
MATSON NAVIGATION COMPANY, INC.

Before the
Merchant Marine Subcommittee,
Merchant Marine and Fisheries Committee
of the
House of Representatives
Concerning the FY 1989 Budget
of the
Maritime Administration

Mr. Chairman:

I am Philip M. Grill, Vice President, Matson Navigation Company, Inc. ("Matson"). Matson supports three proposals with respect to the FY 1989 Budget:

First: Restoration of previous levels of support for Maritime Administration's research and development activities.

Second: Continuance of Maritime Administration's Title XI ship financing guarantee programs.

Third: Elimination of meaningless bill of lading shipboard posting requirement in the Intercoastal Shipping Act, 1933.

1. Maritime Administration's R&D Program Makes Important Contributions to the Maritime Industry

Matson supports increased cooperative efforts between government and industry to achieve improvements in the productivity of our fleet and of our cargo handling methods. Matson has participated, along with American President Lines, Sea-Land Service and the Maritime Administration, in one such joint effort for the past seven years, the Cargo Handling Cooperative Program. This program has made available to the maritime industry technological advances such as automatic equipment identification which uses radio signals to read coded tags on containers and chassis, and remote data transmission and voice recognition systems to allow mechanics inspecting containers to electronically receive prompts and transmit information directly back to a central location at the terminal. The program has permitted carriers to share in the advancement of these technologies without duplication of effort and at reasonable cost.

Due to budgetary constraints, the amount of federal funds that the Maritime Administration can make available to the Cargo Handling Cooperative Program has been reduced from $700,000 in FY 1986 to $200,000 in FY 1988. The continued viability of the program is being threatened by its inability to sustain sufficient testing and experimentation of promising technologies. Yet this program is precisely the kind of program the Commission on Merchant Marine and Defense deemed worthy to support. On December 30, 1987, the Commission on Merchant Marine and Defense presented the following recommendation in its second report:

> "The Department of Transportation should actively encourage cooperative and shared research and development ("R&D") funding efforts between the maritime industries and government in order to identify and implement innovative and creative ideas to improve the efficiency and international competitiveness of the United States maritime industries...."

Matson urges restoration of the previous $700,000 level of R&D support in the FY 1989 budget for the Maritime Administration's Cargo Handling Cooperative Program.

2. Maritime Administration's Title XI Ship Financing Guarantee Program is an Important Aid to the Maritime Industry

Matson operates six vessels carrying freight between United States Pacific Coast ports and Hawaii which were constructed in United States shipyards from 1970 to 1982. All of these vessels were financed in significant part with the proceeds of ship financing obligations whose principal and interest were guaranteed by the Secretary of Transportation under Title XI, Merchant Marine Act, 1936. The availability of such guarantees enabled Matson to borrow the funds under favorable interest rates, terms and conditions. The future availability of the Title XI program will be an important aid in financing the construction or reconstruction of future vessels employed in the domestic commerce of the United States.

3. Elimination of Meaningless Bill of Lading Shipboard Posting Requirement

Section 2 of the Intercoastal Shipping Act, 1933 requires that the terms and conditions of bills of lading and contracts of affreightment be framed under glass and posted in a conspicuous place on board each vessel where they may be seen at all times. This requirement is in addition to the statutory requirements that the terms and conditions of bills of lading and contracts of affreightment be filed with the Federal Maritime Commission and kept open to public inspection where freight is received as a condition of being able to incorporate by reference into short forms of such documents the terms and conditions set forth on the long forms of such documents. This posting requirement is meaningless since it does not, in fact, result in giving any notice to the public.

Modern freight vessels are in port relatively short periods of time for the purpose of loading and discharging cargo. Shippers and consignees are not permitted to cross through busy container yards and board vessels while cargo is being loaded and discharged for safety reasons. It is unsafe to permit shippers and consignees to board vessels for the purpose of inspecting such terms and conditions. Shippers and consignees have adequate opportunity to inspect the terms and conditions of bills of lading and contracts of affreightment in carrier's offices where they may do so in safety. Continuance of the framing and posting requirement results in unnecessary administrative costs for framing, posting, verifying to corporate headquarters that the framing and posting has been accomplished and furnishing evidence in cargo loss and damage litigation that framing and posting was performed as required by the statute. The requirement for framing under glass and posting aboard vessels the terms and conditions of bills of lading and contracts of affreightment should be eliminated from the Intercoastal Shipping Act, 1933 and implementing regulations issued under such Act. A suggested amendment to the Intercoastal Shipping Act is set out below which would not affect the Act's posting requirements for passenger vessels.

The first paragraph of Section 2 of the Intercoastal Shipping Act, 1933 is amended by inserting after the sentence which reads: "The terms and conditions as filed with the Federal Maritime Board shall be framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times.", a new sentence as follows:

> "The preceeding requirement that the terms and conditions shall be framed under glass and posted in a conspicuous place on board each vessel shall not apply to vessels which do not carry passengers."

Thank you for the opportunity to present the views of Matson Navigation Company, Inc..

STATE UNIVERSITY OF NEW YORK
MARITIME COLLEGE
FORT SCHUYLER, BRONX, NY 10465
TELEPHONE (212) 409-7200

REAR ADMIRAL FLOYD H. MILLER, U. S. N. (RET.)
PRESIDENT

24 August 1988

Mr. Arthur W. Friedberg
Director, Maritime Labor and Training
Maritime Administration
400 Seventh Street S.W.
Washington, D.C. 20590

Dear Mr. Friedberg:

This letter is in response to your letter of 9 August 1988 in regard to shipsharing schedules.

I will only address the proposed schedules as relates to New York but in my view each and every one of the schedules demonstrates a total ignorance of the operation and use of the State Maritime Academy training ships.

The 30 day "orientation" period assigned prior to the training ship's departure is unsafe, unmanageable and inefficient. Pre-voyage orientation of 30 days is insufficient to replace current orientation of 8 full months of watches, tracing programs, classes and maintenance work program. At present a two week period prior to the ship's departure is spent loading the ship, moving Cadets on board and practicing the emergency drills required by the Coast Guard. That period won't change. That leaves the first two week period of the 30 days available for indoctrination, an indoctrination that presently spans two academic semesters. These first two weeks are also the same period devoted to final exams, close out of spring sports, and graduation. Obviously they don't mesh with the orientation period.

What the 30 day orientation period does is add a month to the required 60 days at sea period for the training ship, thus adding three months to our nine month academic schedule leaving no time off for Cadets. They do not receive a free education and must be afforded the opportunity to make some money during the already short period they have off after returning from the training cruise.

Any delays due to unavailability of the training ship incurred in regard to the schedules would wrack havoc with the academic and sports schedules as well as incur union and legislative involvement. The idea of changing academic schedules is in direct conflict with 46 CFR, Ch 11, subchapter H. The requirements for a school to maintain shore based facilities on a schedule in conflict with traditional academic schedules is imposing an extreme financial burden, as these shore based facilities could not be marketed as they are during routine summer sessions, with variable academic schedules. Additionally, the changing of academic schedules would impose a major obstacle to the NROTC program at the two schools that offer the NROTC program.

These schools have developed programs based on the requirements set forth in the CFRs.

The proposed schedules are consistent with the Cadet Observer philosophy of training and not crew training as provided on the State Maritime Academy training ships. To take the ships to sea as proposed is unsafe and, in addition, places the Federal Government in liability situations.

In addition the schedules as set forth impact on the sea time equivalency packages as set forth in the International Maritime Organization Standards for Training, Certification and Watchkeeping for Seafarers as approved by the U.S. Coast Guard and the Maritime Administration (see your letter dated 9 December 1986). This college can not meet the requirements as currently approved without the full availability of a training ship.

The proposed schedules also open all sorts of questions in regard to MarAd's management structure of the training ships, for example:

Who steams a ship from place to place?

When a ship is in laid-up status, who is responsible for the ship? Is it alongside a college pier? Who is the Master, Chief Engineer, crew during lay-up and shipyard availabilities?

How is maintenance training accomplished? Does each school come on and just have at it? Does one school come on and do nothing because previous school has completed maintenance?

Who handles spare parts, USCG/ABS inspections, etc.?

Who pays for Panama Canal transits?

In conclusion, all three alternatives display a naive, unsafe viewpoint of training ship operation. The 30 day orientation is a liability that displays a total lack of understanding as to how shoreside training is tied together with the operational sea term.

Months of watchstanding, evening tracing programs, classes and maintenance programs are assumed to be replaceable with a 30 day orientation. This orientation fails to consider weekends, classes and final exams. This is a strong reminder of how little the Maritime Administration knows about the most common and proven method of American Merchant Marine officer training in our Nation today.

Sincerely,

FH Miller

F. H. Miller
Rear Admiral, USN (Ret.)

FHM:pcb
cc: State Maritime Academy Superintendents, Presidents

U.S. Department
of Transportation
Maritime
Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

August 9, 1988

Rear Admiral Floyd H. Miller, USN (Ret.)
President
State University of New York
Maritime College
Fort Schuyler, New York 20465

Dear ~~Admiral Miller~~ Hal:

Enclosed are three ship-sharing scenarios for your review and comment. These three scenarios were designed with the primary purpose to minimize dislocation to the schools while at the same time making the best use of limited Federal resources. There may well be other variations for the scheduling of two training ships and we are anxious to get such suggestions from you. We need to settle on a particular scenario as promptly as possible in order to continue making progress toward the completion of our joint study effort. This is also necessary in order to refine the cost estimates.

Please review the responses to our earlier requests for your costs related to the training ships and provide us with estimates (or reestimates of previous submissions to MARAD) of the costs to your school as affected by these or other scenarios you want us to consider.

We are still working toward a September 1988 study completion date. Accordingly, a response on these or any other scenarios you may have by August 26, would be appreciated.

Sincerely,

A.W. Friedberg

ARTHUR W. FRIEDBERG
Director
Office of Maritime Labor
and Training

Enclosures

AUG 9 1988

Alternative Ship-Sharing Schedule No. 1

Action	Dates	Number of Days
Ship No. 1		
Massachusetts pre-voyage orientation	Dec. 4-Jan. 2	30
Massachusetts training voyage	Jan. 3-Mar. 5	62
Post-voyage debarkation	Mar. 6-Mar. 10	5
Ship is inactive - short-term yard work period	Mar. 11-Apr. 3	24
Ship is steamed to Maine	Apr. 4-Apr. 5	2
Maine pre-voyage orientation	Apr. 6-May 5	30
a. Maine training voyage; includes stop at Texas to pick-up Texas cruise complement for subsequent return voyage to Maine 1/	May 6-July 4	60
Post-voyage debarkation (Maine)	July 5-July 9	5
b. Texas training voyage; includes stop at Maine for Maine's post-voyage debarkation with subsequent return voyage to Texas 1/	June 7-Aug. 6	61
Post-voyage debarkation (Texas)	Aug. 7-Aug. 11	5
Ship is inactive - primary shipyard work period - Texas' 30 day "orientation" during period	Aug. 12-Nov. 27	78/30
Ship is steamed to Massachusetts	Nov. 28-Dec. 3	6
Ship No. 2		
California pre-voyage orientation	Dec. 16-Jan. 14	30
California training voyage	Jan. 15-Mar. 25	70
Post-voyage debarkation	Mar. 26-Mar. 30	5
Ship is inactive	Mar. 31-Apr. 4	5
Ship is steamed to New York through Panama Canal	Apr. 5-Apr. 20	16
New York pre-voyage orientation	Apr. 21-May 20	30
New York training voyage	May 21-July 19	60
Post-voyage debarkation	July 20-July 24	5
Ship is inactive - primary shipyard work period	July 25-Nov. 29	128
Ship is steamed to California through Panama Canal	Nov. 30-Dec. 15	16

1/ Maine and Texas training voyages include 33 days of sailing jointly.

In this scenario, Ship Number 1 is used for the training voyages of Massachusetts, Maine, and Texas, with Maine and Texas cruising jointly for approximately 33 days. Ship Number 2 is used by California, and then steamed to New York for that school's training voyage. All schools sail at their desired training voyage dates, with no significant effects upon academic scheduling and graduation dates.

Each school, except Texas, has access to its training vessel for 30 days of pre-voyage orientation, and all schools have 5 days for post-voyage debarkation. Thirty days of exclusive access to the training vessel are provided for Texas under this scenario, but not directly before its training voyage. There will be adequate time to perform necessary maintenance and repair on both ships. Ship Number 1 is inactive for periods of 24 days and 78 days; Ship Number 2 is inactive for periods of 5 days and 128 days.

Under this scenario, Maine begins its training voyage at its requested date (May 6) and stops to load the Texas training voyage complement in time for Texas' requested voyage start date (June 7). The schools then sail jointly, returning to Maine after completion of Maine's training voyage (July 4). After debarking Maine's training voyage complement, Texas will continue its voyage, returning to Texas August 6. Maine and Texas would be sailing and training together for about half of each school's training voyage.

Alternative Ship-Sharing Schedule No. 2

Action	Dates	Number of Days
Ship No. 1		
Massachusetts pre-voyage orientation	Dec. 4-Jan. 2	30
Massachusetts training voyage	Jan. 3-Mar. 5	62
Post-voyage debarkation	Mar. 6-Mar. 10	5
Ship is steamed to New York	Mar. 11-Mar. 12	2
Ship is inactive - potential shipyard work period	Mar. 13-Apr. 20	39
New York pre-voyage orientation	Apr. 21-May 20	30
New York training voyage	May 21-July 19	60
Post-voyage debarkation	July 20-July 24	5
Ship is inactive - potential short-term yard work period	July 25-Aug. 15	22
Ship is steamed to Maine	Aug. 16-Aug. 17	2
Maine pre-voyage orientation	Aug. 18-Sept. 16	30
Maine training voyage	Sept. 17-Nov. 15	60
Post-voyage debarkation	Nov. 16-Nov. 20	5
Ship is inactive	Nov. 21-Dec. 1	11
Ship is steamed to Massachusetts	Dec. 2-Dec. 3	2
Ship No. 2		
California pre-voyage orientation	Dec. 16-Jan. 14	30
California training voyage	Jan. 15-Mar. 25	70
Post-voyage debarkation	Mar. 26-Mar. 30	5
Ship is inactive - potential short-term yard work period	Mar. 31-Apr. 23	24
Ship is steamed to Texas through Panama Canal	Apr. 24-May 7	14
Texas pre-voyage orientation	May 8-June 6	30
Texas training voyage	June 7-Aug. 6	61
Post-voyage debarkation	Aug. 7-Aug. 11	5
Ship is inactive - primary shipyard work period	Aug. 12-Oct. 10	60
Ship is steamed to California through Panama Canal	Oct. 11-Oct. 24	14
Ship is inactive - potential shipyard work period	Oct. 25-Dec. 15	52

In this scenario, Ship Number 1 is used for the training voyages of Massachusetts, New York, and Maine. Ship Number 2 is used by California and steamed to Texas for that school's training voyage. Each school has access to its training vessel for 30 days of pre-voyage orientation and 5 days of post-voyage debarkation. New York, California, and Texas have potential extra use of the training vessels during periods that the ship is inactive and not required for shipyard work or alongside repairs. There will be adequate time to perform necessary maintenance and repair on both ships. Ship Number 1 is inactive for periods of 39 days and 33 days; Ship Number 2 is available for one period of 24 days and another period of up to 112 days.

Under this scenario, four schools sail at their desired training voyage dates, with no significant effects upon academic scheduling and graduation dates. Either Maine or New York would have to adjust its academic schedule, and for purposes of example, the adjustment is reflected in Maine's schedule. Maine's pre-voyage orientation period is scheduled for late-August to late-September, its training voyage is scheduled for late-September to late-November, and the post voyage debarkation period ends about November 20. This entire period falls in what is presently Maine's First Term.

Alternative Ship-Sharing Schedule No. 3

Action	Dates	Number of Days
Ship No. 1		
Massachusetts pre-voyage orientation	Dec. 4-Jan. 2	30
Massachusetts training voyage	Jan. 3-Mar. 5	62
Post-voyage debarkation	Mar. 6-Mar. 10	5
Ship is steamed to Maine	Mar. 11-Mar. 12	2
Ship is inactive - potential shipyard work period	Mar. 13-May 10	59
Maine/Texas pre-voyage orientation	May 11-June 9	30
Maine/Texas joint training voyage	June 10-Aug. 9	61
Post-voyage debarkation	Aug. 10-Aug. 14	5
Ship is steamed to Massachusetts	Aug. 15-Aug. 16	2
Ship is inactive - primary shipyard work period	Aug. 17-Dec. 3	109
Ship No. 2		
California pre-voyage orientation	Dec. 16-Jan. 14	30
California training voyage	Jan. 15-Mar. 25	70
Post-voyage debarkation	Mar. 26-Mar. 30	5
Ship is inactive	Mar. 31-Apr. 4	5
Ship is steamed to New York through Panama Canal	Apr. 5-Apr. 20	16
New York pre-voyage orientation	Apr. 21-May 20	30
New York training voyage	May 21-July 19	60
Post-voyage debarkation	July 20-July 24	5
Ship is inactive - first potential primary shipyard work period	July 25-Sept. 26	64
Ship is steamed to California through Panama Canal	Sept. 27-Oct. 12	16
Ship is inactive - second potential shipyard work period	Oct. 13-Dec. 15	64

In this scenario, Ship Number 1 is used for the training voyages of Massachusetts, Maine, and Texas, with Maine and Texas cruising jointly. Texas cadets, staff, crew, and equipment are flown to Maine, for pre-voyage orientation and the joint training voyage, and then flown back to Texas after post-voyage debarkation. Ship

Number 2 is used by California, and then steamed to New York for that school's training voyage. Each school has access to its training vessel for 30 days of pre-voyage orientation, and all schools have 5 days for post-voyage debarkation. There will be adequate time to perform necessary maintenance and repair on both vessels. Ship Number 1 is inactive for periods of 59 days and 109 days, Ship Number 2 is available for one segmentable period of up to 128 days and another period of 5 days.

Under this scenario, Massachusetts, California, New York, and Texas sail at approximately their desired training voyage dates; Maine sails about one month later than its presently desired training voyage dates. Academic scheduling and graduation dates are not affected by more than a few days at any school. Training voyage scheduling for Texas and Maine will require close logistical planning between the academies.

MEMORANDUM OF AGREEMENT

(10/26/82)

BETWEEN

DEPARTMENT OF THE NAVY AND DEPARTMENT OF TRANSPORTATION

1. GENERAL

a. The Assistant Secretary of the Navy (Shipbuilding and Logistics), on behalf of the Department of the Navy, and the Maritime Administrator, on behalf of the Department of Transportation, agree that, in consideration of the national defense and the American Merchant Marine, they have a mutual interest and responsibility in the joint establishment, maintenance and control of a Ready Reserve Force (RRF), which shall be an element of the National Defense Reserve Fleet (NDRF) that is maintained by the Maritime Administration in a state of increased readiness to meet common user lift requirements of the Services in a contingency. This agreement does not apply to any ships of the NDRF that are not assigned to the RRF. Such ships will continue to be maintained by MARAD under existing procedures and authorities.

b. The office of the Chief of Naval Operations is the appropriate office in the Department of the Navy to determine what ships among those assigned to the RRF should be activated in defense emergencies and when they are needed. This determination is subject to the concurrence of the Assistant Secretary of the Navy (Shipbuilding and Logistics) and the Maritime Administrator. Ships will be returned to inactive status in the RRF when it has been determined by the Assistant Secretary of the Navy (Shipbuilding and Logistics) and the CNO that they are excess to defense emergency requirements. No ship or ships of the RRF shall be activated for a non-defense emergency without the explicit approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) and the Maritime Administrator, with the exception of those transferred from the Navy which may be activated unilaterally by the Assistant Secretary of the Navy (Shipbuilding and Logistics).

c. Pursuant to this agreement, MARAD in coordination with Navy, will prepare and maintain an RRF Manual of Plans and Procedures which is herewith incorporated as a reference to this agreement.

2. PURPOSE

To provide for an agreement between the Department of the Navy and the Department of Transportation on the acquisition, lay-up and maintenance of ships in the RRF, on the conditions under which any or all ships of the RRF will be activated for operation under Navy operational control, and on the conditions and procedures for the return to the NDRF of such ships as may be returned.

3. COMPOSITION OF THE RRF

The RRF will be composed of a mix of ships selected and upgraded from the NDRF and other ships acquired by Navy or MARAD for the RRF. The time-phased build-up of the RRF, the total number of ships in the RRF, the mix, specific ship types, positioning, and timing of future changes in RRF composition will be at the discretion of Navy in accordance with requirement validations and budget limitations, and subject to the availability of ships as determined by the Maritime Administrator. The positioning of RRF ships will be agreed to by Navy and the Maritime Administrator

Based on guidance provided by Navy with respect to the desirability of specific types and numbers of vessels essential to support mission requirements, MARAD will identify and maintain a listing of current and projected vessels eligible to support the indicated requirements.

4. RRF SHIP ACQUISITION

It is agreed that commencing in FY 84, Navy will provide funding annually for the acquisition of ships deemed suitable and that MARAD will execute the acquisition of ships as indicated below:

a. MARAD will negotiate with owners for the purchase of vessels recognized by MARAD and Navy as desirable. Competitive selection will be used wherever practicable to obtain vessels intended for inactivation from U. S. operating companies to meet Navy requirements.

b. MARAD will advise Navy of the results of the negotiations and obtain approval to proceed.

c. MARAD will prepare and place in the RRF acquired vessels.

5. PREPARATION AND MAINTENANCE

Ships selected for the RRF will be maintained in accordance with standards agreed to by Navy and MARAD. With the exception of USNS ships and unless otherwise agreed to by the ASN(S&L) and the Maritime Administrator, preparation of ships for the RRF will be performed by MARAD in accordance with specifications mutually agreed to by Navy and MARAD. These specifications will include, but not be limited to the requirement that the ship(s) enter the RRF in a state of good repair and preservation, fully classed by the American Bureau ~~of~~ Shipping and possessing current United States Coast Guard Certificate(s) of Inspection. USNS ships will be prepared by Navy in accordance with similar specifications.

All ships of the RRF will be maintained "In Class" as required by the American Bureau of Shipping (ABS) and the U.S. Coast Guard (USCG). MARAD will maintain these ships in such a state that they can be activated and ready for sea within a specified time frame. These predetermined time frames, e.g., within 5, 10, or 20 days, will be jointly agreed to by the CNO and MARAD and assigned to each RRF ship.

Planning objectives and supporting specifications for activation, deactivation and maintenance of ships in the RRF will be in accordance with the RRF Manual of Plans and Procedures prepared and maintained by MARAD in coordination with Navy. This manual will be reviewed jointly on an annual basis and modified as necessary to ensure that adequate maintenance standards are achieved for ships in the RRF.

With the exception of USNS ships transferred to MARAD, all RRF ship activations will be subject to prior approval by the Assistant Secretary of the Navy (Shipbuilding and Logistics) and the Maritime Administrator. Activation of transferred Navy ships will only require the approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics).

6. MANNING AND OPERATION OF RRF SHIPS

RRF ships of the NDRF, less those Navy ships transferred to MARAD, will be operated under General Agency Agreement (GAA) between MARAD and individual shipping companies. These agreements will be "in being" and capable of being executed immediately upon notification by CNO that a determination for activation has been made.

The manning of the Navy ships transferred to MARAD in the RRF not under GAA will be at the discretion of the Navy. In the event Navy determines that the ships cannot be manned by Civil Service personnel, MARAD will make the necessary arrangements to have the ships operated and manned by a General Agent selected by MARAD and will make every effort to meet the pre-assigned readiness criteria.

Following reactivation, RRF ships, less Navy ships transferred to MARAD not under GAA, will be managed by MARAD for the account of the Department of Defense. Navy will exercise operational control of all ships placed into the Department of Defense service.

7. TEST & INSPECTIONS

Annually, a planned activation of one or more ships to include operation for an extended period will be conducted. The planned activation, utilization and steaming period will be as mutually arranged between CNO and MARAD.

Additionally, at Navy's [illegible] request, periodic no-notice RRF activation tests may be conducted. These no-notice tests will consist of full ship activation, at sea steaming for a period to be determined by CNO, and an operational test of all cargo handling equipment. These tests may be conducted in connection with the annual extended duration operational test or at Navy's discretion as independent activation tests.

There shall be an annual Navy/MARAD review of the maintenance, readiness, repair, and operational tests of all RRF ships. This review shall be the basis for ensuring that lay-up, maintenance and test procedures are adequate to achieve the readiness objectives. Results of this review will be used to identify RRF ship improvement projects and to adjust the readiness status of individual ships for the subsequent year. Reviews will be conducted so that improvement project funding can be included in the Navy fiscal year budget submission.

8. COSTS

Recognizing that funding for the RRF program is provided by Navy, MARAD will closely coordinate with Navy on the nature and level of repairs to be accomplished to RRF ships. Such requirements, where possible, will be addressed during the annual Navy/MARAD review of all RRF ships.

Subject to prior agreement, Navy will reimburse the Maritime Administration for the following RRF direct costs and associated overhead:

a. Lay-up of ships in the RRF, including all ship preparation and repairs.

b. Operation and maintenance of the RRF to meet the reactivation readiness standards prescribed by the CNO and concurred in by the Maritime Administrator.

c. Costs incident to the annual tests.

d. Activation, operation, and subsequent inactivation of ships placed into service.

e. Costs incident to major modifications to the RRF program.

f. Costs incident to program cancellation.

9. COMPETITIVE BIDDING

All shipyard alterations and modifications to the RRF ships will be accomplished by MARAD and will be performed in a shipyard of the United States as a result of competitive bidding.

10. BUDGET ESTIMATES

Based on RRF program guidance provided by CNO, MARAD will annually by December 1, provide cost estimates of operation, maintenance and activation tests of the RRF to CNO for inclusion in the Navy budget process.

11. TRANSFER OF FUNDS AND REPORTING

Funding will be provided by the Department of the Navy by interdepartmental voucher. MARAD will obligate the funds to achieve the objectives set forth herein. In order to insure adequate funding management, MARAD will provide Navy with the following reports:

a. Contract award message which will include contractor(s) and location, cost and performance period, contract projected end-cost, other costs by major category, and completion date.

b. Monthly status reports which will include assessment of progress, fund status, controlling work to be accomplished and any problem areas, including any deviations from contract award message baseline.

c. Final accounting which will include all expenditures made by vessels and by line item. These will be provided in a timely manner, normally within 120 days after completion of the contract period.

12. OPERATING PROCEDURES

a. The Associate Administrator for Shipbuilding and Operations, MARAD will act as the MARAD Point of Contact with cognizance over RRF matters.

b. The Director Logistics Plans Division, OPNAV will act as the Point of Contact for Navy with cognizance over RRF matters.

c. These offices will develop additional detailed working arrangements necessary to implement this memo of agreement.

This agreement is effective October 26, 1982 and supersedes the previous Memorandum of Agreement, dated November 2, 1976.

FOR THE DEPARTMENT OF
TRANSPORTATION

Harold E. Shear
Maritime Administrator
Maritime Administration

FOR THE DEPARTMENT OF THE
NAVY

26 October 1982
DATE

GEORGE A. SAWYER
ASSISTANT SECRETARY OF THE NAVY
(SHIPBUILDING AND LOGISTICS)

(10/26/82)

U.S. Department of Transportation
Maritime Administration

Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

29 MAR 1988

RECEIVED
MAR 30 1988
COMMITTEE ON MERCHANT MARINE
AND FISHERIES

Honorable Walter B. Jones,
Chairman Committee on Merchant Marine
and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

During the March 23, 1988, hearing which you chaired for the Subcommittee on Merchant Marine, you formally requested copies of "studies" prepared by the Maritime Administration on the subject of training ship sharing by the State maritime academies. I am enclosing the three papers in question without restriction for use by the Subcommittee in its legislative activities. All of these papers were prepared internally but never formally acted upon by the Agency.

The documents are:

- Economic Feasibility of Consolidating Federally-Funded Activities at the State Marine Schools-
  June 1981

  This study concluded that "Federal costs over the six year period [1982-1988] would be almost $30 million less under the two-schoolship alternative than under the existing five-schoolship arrangement" (p.39).

- State Maritime Academy Sea Training Proposal
  (Five State "Salt-Water" Academies)-
  July 1982

  This Proposal addressed the alternative of two shared training ships and the provision of five small training craft (30 cadet capacity) for use during the academic year. "The Federal savings in the first five years resulting from the reduction of the 5 training ships to 2 active ships would more than offset the construction cost [about $22.3 million] of 5 small training craft." (EXECUTIVE SUMMARY)

- o State Maritime Schools Training Ship Replacement Alternatives Study-February 1986

  This study of four alternatives, one of which was ship sharing, makes no recommendation. A cost comparison of the four alternatives shows that "Alternative 4 - ship sharing - is the most attractive alternative, cost wise, and would provide a newer ship to replace four existing ships in the shared arrangement." (EXECUTIVE SUMMARY, page v)

All of these papers support the technical feasibility and the substantial cost avoidance of future ship replacement in a reduction of the number of ships maintained for active operation by each of the five "salt-water" academies for their individual two-month annual training voyages.

During the Subcommittee hearing, Congressman Norman B. Lent asked for a copy of a Maritime Administration study on ship-sharing described as one which determined that ship-sharing would not work. We have no other study, specifically not one which reached this conclusion.

Finally, as the conclusions reached in the enclosed documents clearly demonstrate, there is no Maritime Administration study which would have formed the basis for my predecessor to have reached the conclusion, described during the hearing, that ship-sharing was not feasible.

I hope that this letter and the enclosures fully satisfy the requests made during the hearing. If you have any further question, or if you believe I can provide further assistance in the Subcommittee's work, please do not hesitate to contact me.

Sincerely,

JOHN GAUGHAN
Maritime Administrator

Enclosures

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Economic Feasibility of Consolidating Federally-Funded Activities at the State Marine Schools

Maritime Administration
Office of Policy and Plans
Division of Program Studies
and Evaluation
June, 1981

DRAFT

Contents

Page No.

Tables iii

Chapter I. Introduction 1

Chapter II. Status of Present Schoolships and Potential Replacement Vessels 3

Chapter III. Operating Scenarios and Assumptions 8
- A. Assumptions Common to Both Alternatives.. 10
- B. Operating Scenario and Assumptions Under the Two-Schoolship Alternative 13
  - 1. Operating Scenario 13
  - 2. Assumptions under the Two-Schoolship Alternative 16

Chapter IV. Discussion of Federally-Funded Costs 22
- A. Two-Schoolship Alternative 22
  - 1. Expenses for maintenance of ships as stationary training platforms.. 22
  - 2. Hiring of Nucleus Shipkeeping Crews. 27
  - 3. Fuel 30
  - 4. Transportation of Supplementary Crews and Texas Cadets 31
  - 5. Maintenance and Repair 34
  - 6. Vessel Positioning 34
  - 7. Consumables and Expendables 35
  - 8. Repositioning the Maine Academy Ship 36
- B. Five-Schoolship Alternative 37
  - 1. Maintenance and Repair 37
  - 2. Fuel 37

Chapter V. Concluding Observations 39

Attachment 1

DRAFT

Tables

Table		Page No.
Table 1.	State Schoolship M&R Costs, 1977-1981	4
Table 2.	FY 1983 State Training Ships: M&R Funding Requirements	7
Table 3.	Projected Cadet Cruise Complements, FY 1983-FY 1988	10
Table 4.	Escalation Factors	13
Table 5.	First-Year Costs Under RRF Training Platform Plan	24
Table 6.	Subsequent-Year Costs Under RRF Training Platform Plan	24
Table 7.	Federal Costs of Retention of Schoolships Not Used for Cruises	26
Table 8.	Annual Nucleus Shipkeeping Crew Costs	29
Table 9.	Cost of Transporting Supplementary Crews and Texas Cadets	33
Table 10.	Comparison of Federally-Funded Costs Under the Two-Schoolship and Five-Schoolship Alternatives, FY 1983-FY 1988	41

Economic Feasibility of Consolidating Federally-Funded Activities at the State Marine Schools

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I. Introduction

The Office of Management and Budget program guidance on 1982 budget allowances directed the Department of Commerce to conduct a study assessing the economic feasibility of consolidating Federally-funded activities at the State marine schools. This study has been prepared in response to the OMB directive.

There are three Federally-funded activities which involve direct assistance to the State marine schools. These activities are authorized by the Merchant Marine Act, 1936, as amended by the Maritime Education and Training Act of 1980 (46 U.S.C. 1295). Under this legislation, the Maritime Administration provides an annual assistance payment of $100,000 to each State maritime academy or college; makes incentive payments of $1,200 per academic year (for not more than four years) to students at the State marine schools to be used to assist in defraying the cost of uniforms, books, and subsistence for such students; and furnishes, and maintains for training purposes, a suitable vessel to each of five schools for use as a schoolship. The five States with schoolships assigned to their respective academies are California, Maine, Massachusetts, New York, and Texas.

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Of the three Federally-funded activities, the provision and maintenance of schoolships is the only activity that might be subject to consolidation. Annual payments to the schools and student payments cannot be consolidated without the schools themselves being consolidated. Therefore, this study is confined to an examination of the economic feasibility of consolidating the schoolship activity. Specifically, it is concerned with a comparison of two alternatives: operating only two of the current five schoolships for cruises by all five academies versus retaining the current five schoolship operation. The study does not address non-economic, political, or institutional factors which, in the final analysis, may determine whether the State marine school program is continued using the five current ships, only two ships, or some other alternative. Further review of current legislation is required with regard to several elements of the two-schoolship operation to determine if additional legislative authority would be necessary to implement the two-schoolship alternative. The State marine schools have not been consulted with regard to their willingness to participate in a two-ship program or with regard to miscellaneous costs which may have been incurred by the States and which the Federal government would adopt.

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II. Status of Present Schoolships and Potential Replacement Vessels

The current fleet of training ships is an assortment of vessels which are limited in their usefulness as training ships. They range from 29-41 years in age and vary in condition. They are not comparable to training ships provided by several major maritime nations which use vessels specifically designed for training. In their present condition the five U.S. training ships represent a state of technology which is losing relevance to modern ship design. Ship maintenance and repair (M&R) has been limited to the work most necessary for meeting mandatory operational and safety levels.

Since 1977, the basic maintenance and repair costs for the five State marine schoolships have increased from about $2.1 million to $5.8 million, and continuing increases are projected for the future. Table 1 displays the M&R costs for the five-year period, FY 1977-FY 1981, by schoolship.

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Table 1

State Schoolship M&R Costs
1977-1981
($000's)

Eastern Region	1977	1978	1979	1980	1981*
T.S. EMPIRE STATE (New York)	$ 263.8	$ 341.0	$ 499.8	$ 852.8	$ 450.0
T.S. BAY STATE (Massachusetts)	639.9	928.0	60.1 1/	4,271.0 2/	3,568.0 3/
T.S. STATE OF MAINE (Maine)	511.5	384.5	1,038.8	1,685.1	843.0
Sub-Total	$1,415.2	$1,653.5	$1,598.7	$6,808.9	$4,861.0
T.S. GOLDEN BEAR (California)	339.8	373.7	379.8	515.7	450.0
T.S. TEXAS CLIPPER (Texas)	364.7	330.0	378.8	499.4	485.0
TOTAL	$2,119.7	$2,357.2	$2,357.3	$7,824.0	$5,796.0

* Estimated.

1/ In 1979, the Massachusetts training ship, T.S. BAY STATE (ex S.S. HENRY GIBBONS), was withdrawn from schoolship service. The New York State schoolship, T.S. EMPIRE STATE, was loaned to the Massachusetts Maritime Academy for training cruise in 1979.

2/ The new T.S. BAY STATE (formerly the USNS GEIGER) was activated in 1980. M&R costs include approximately $4.0 million in activation costs.

3/ Includes $365,000 for activation costs additional to those covered in 1980.

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Even with the increased levels of basic M&R funding, deferred work requirements have increased. Significant factors in the increase in costs have been inflation and unforeseeable expenses for mandatory repairs. Decisions as to what must be repaired are primarily a function of U.S. Coast Guard and American Bureau of Shipping (ABS) inspectors' judgment. MarAd has obtained waivers on certain deficiencies in the past, but even with those waivers, costs have increased. Also, waivers only defer M&R work that must be carried out in the future, and at higher costs.

While recognizing that the FY 1982 funding level for M&R of State training ships is only $7.0 million, MarAd has reviewed the M&R work requirements for FY 1983 and their costs which total an estimated $11.7 million. In view of the restrained budget climate, these requirements have been reduced to a 1983 budget request for $9.4 million. Nevertheless, the $11.7 million work program is still regarded as the program needed to achieve reasonable operating condition for the five schoolships in 1983. Even at the $9.4 million funding level, it will be necessary to defer preventive maintenance measures and repairs to important systems needed to place the ships in reasonable operating condition. The $11.7 million program does not reflect certain desired habitability improvements or work tasks specifically designed to extend the life of the vessels. As a representation of the current condition of the five schoolships, Table 2 shows the $11.7 million [illegible] work program.

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As part of this study, an examination was conducted of potential schoolship replacement vessels maintained in the National Defense Reserve Fleet, other idled vessels, and ships presently being operated commercially. None of the vessels examined has the right configuration for use as a schoolship. Schoolship requirements of accommodation for a complement of up to 800 officers, crew, and cadets with extensive spaces for training, adequate lifesaving equipment, and acceptable habitability make the costs of conversion for schoolship use quite high except when the current configuration is close to the desired configuration. Since no appropriately configured ships are other than the existing schoolships available, it is assumed that no adequate schoolship replacement vessels will be available in the time frame of the study that will present a less costly Federal option for providing schoolships to the State academies.

M&R Funding Requirements
($000's)

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	EMPIRE STATE	STATE OF MAINE	BAY STATE	EASTERN REGION SUB-TOTAL	GOLDEN BEAR	TEXAS CLIPPER	TRAINING SHIPS GRAND TOTAL
I. MANDATORY AND REGULATORY ITEMS:							
Drydocking and underwater repairs	-	274	-	274	159	205	638
Lifeboat repairs and renewals including falls, davits, winches and liferafts	500	379	383	1,262	22	9	1,293
Steel repairs and renewals	1,000	766	707	2,473	200	400	3,073
Evaporator repair, overhaul and installation	200	31	11	242	6	-	248
Fire Protection System installation and servicing	100	-	52	152	7	4	163
Annual Boiler surveys and repairs	200	351	260	811	-	40	851
Continuous survey	-	-	-	-	-	23	23
ABS Class and Coast Guard Certification items	200	150	105	455	14	20	489
Turbine inspection, testing and repair	-	-	-	-	4	79	83
Inclining Experiment-New Stability Book	25	-	-	25	-	-	25
Emergency diesel and Alarm systems	-	-	-	-	19	6	25
Pump repairs and installations	21	23	3	47	-	-	47
Evaporator/Feed Pump foundation renewals	-	8	-	8	-	-	8
Capstan, Windlass repairs	-	8	3	11	-	-	11
Radio equipment repairs	25	1	2	28	3	11	42
Navigation equipment repairs	-	8	3	11	1	3	15
Sub-Total	2,273	1,999	1,529	5,801	435	800	7,036
II. SEAWORTHINESS ITEMS							
Ship elevators overhaul and repair	150	150	150	450	-	-	450
Watertight door-diesel pump room and weather decks	50	50	88	188	-	3	191
Removal of wooden decks 01,02,03 levels	500	500	500	1,500	-	-	1,500
Refridgeration/Ventilation/Air Conditioning repairs	353	-	2	355	5	81	441
Bilge and oil water separator installation	100	-	-	100	-	-	100
Heating coils fuel oil double bottom tanks	100	-	-	100	-	-	100
Overhaul cargo gear, winches, booms wires, blocks, mast ladders, etc.	100	100	119	319	29	8	356
Piping repairs	202	154	164	520	80	8	608
Motor, service and repairs	50	16	64	130	7	10	147
Air Compressor service and repairs	42	-	-	42	-	-	42
Insulation and lagging renewal	6	13	-	19	12	-	31
Valve, guage, and thermometer repairs	-	20	25	45	32	-	77
Diesel, generator repairs	-	-	36	36	-	-	36
Tube replacement and renewal	-	21	-	21	-	-	21
Water/feed tank cleaning and renewal	-	60	68	128	-	-	128
Electrical including armatures	-	21	4	25	31	8	64
Bilge wells, and deck gratings	-	16	-	16	30	-	46
Reach rods, fire hose racks	-	16	28	44	-	-	44
Hatch, handrails, tank fitting, and bilge keel repairs	-	3	30	33	14	-	47
Sub-Total	1,653	1,140	1,278	4,071	240	118	4,429
III. HABITATION SANITATION AND MESSING ITEMS:							
Heating coil renewal-laundry	-	10	5	15	-	-	15
Spare parts	-	-	-	-	32	-	32
Deck tile renewal	-	24	82	106	-	-	106
Piping/Valves-galley, bake shop, salad rooms, scullery etc.	-	32	-	32	-	-	32
Hotwater heater-dishwasher, and radiator system repairs	-	1	-	1	9	-	10
Drainwell renewal-showers	-	17	5	22	-	-	22
Sanitary system valve renewal and probe installation	-	6	-	6	9	-	15
Sub-Total	-	90	92	182	50	-	232
GRAND TOTAL	3,926	3,229	2,899	10,054	725	918	11,697

III. Operating Scenarios and Assumptions

The five-schoolship alternative presumes that training will be continued in the traditional manner with each school using its assigned ship to provide sufficient training to qualify cadets for licensing. This section describes the operating scenario for providing comparable training using only two of the existing ships to meet at-sea requirements, and the assumptions underlying that scenario. Certain assumptions have been made in the study which apply equally to either alternative.

The study compares the economic feasibility of the two-schoolship and the five-schoolship alternatives for six fiscal years, 1983 through 1988. This limitation is based on the present maximum life expectancy of the oldest of the vessels without regard to unexpected occurrences that would shorten the life span of any of the vessels involved in either alternative. The cost calculations anticipate basic maintenance and repair commensurate with extra use of the vessels under the two-schoolship alternative. Therefore, the life expectancy of the vessels does not change. It is realized that the use of FY 1988 as the expected end point for one of the five schoolships as an operable training vessel is too definitive. Theoretically, the life of the vessel is extended each year that basic

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maintenance and repair is carried out. However, given a level of funding for maintenance and repair that does not include substantial rehabilitation work, including training platform improvements, under a positive life-extension program, there comes a point at which one of the vessels will no longer be operable for continued use as a schoolship. Under a program providing only basic maintenance and repair, it is estimated that the point at which one of the existing five schoolships will have to be replaced is at the end of FY 1988.

The costs presented in this study under the five-schoolship alternative reflect costs associated with maintaining the present T.S. BAY STATE. An amendment to the Maritime Administration authorization bill for fiscal year 1982 calls for a study comparing the relative costs of repairing and outfitting the T.S. BAY STATE with the costs of reactivating and converting the S.S. TULARE (in the U.S. Navy Reserve Fleet) to replace the present T.S. BAY STATE. The Maritime Administration has initiated that study in response to a letter from Representative Gerry E. Studds and members of the Massachusetts Congressional delegation (Attachment 1). A preliminary estimate indicates that replacement of the T.S. BAY STATE with the S.S. TULARE would increase maintenance and repair costs under the five-schoolship alternative by $10-20 million.

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A. Assumptions Common to Both Alternatives

The annual number of State marine school cadets to receive at-sea training on the schoolships during FY 1983-FY 1988 will remain constant at present levels:

The five academies are close to, if not at, their potential capacities. Due to the expected stringent financial conditions at both the State and Federal level during the period involved, no near-term changes in present cadet levels are anticipated. Therefore, the cadet cruise complements for the five schools will be as shown in Table 3 for each year of the study, based on 1980/1981 cruise complements.

Table 3
Projected Cadet Cruise Complements, FY 1983-FY 1988

School/Vessel	Number of Cadets 1/
State University of New York Maritime College T.S. EMPIRE STATE	680
Massachusetts Maritime Academy T.S. BAY STATE	600
Maine Maritime Academy T.S. STATE OF MAINE	340
California Maritime Academy T.S. GOLDEN BEAR	360
Texas Maritime College T.S. TEXAS CLIPPER	210

1/All present cruises include cadets from three academic classes except Maine's, which only includes cadets from two classes. It is assumed that the one Maine class that currently sails on commercial vessels will continue to do so through 1988.

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The extra six months of at-sea training that would be necessitated by ratification of the IMCO Convention requiring one year of at-sea training or its equivalent will be covered by some method other than use of the schoolships:

Federal Regulations (46 C.F.R., Part 310, Section 310.3 (c) and Part 10, Sections 10.05-33 (a)(3), 10.10-21 (a)(3) specify that cadets at the State academies must receive at least six months of sea training aboard a schoolship in a cruise status to become eligible to sit for an original Coast Guard license examination. A maximum of two months of training time aboard commercial vessels may be substituted for two months of specified schoolship time. In all probability, the sea-time requirement for deck cadets will be increased to one year before or during the period covered by this study. The Inter-Governmental Maritime Consultative Organization (IMCO) concluded an International Conference on Standards of Training and Certification of Seafarers in July 1978, which produced an International Convention on Standards of Training, Certification and Watchkeeping for Seafarers. The Convention comes into force when twenty-five countries ratify it. In view of the U.S. Government's strong support of this convention, it is presumed that the provisions of the Convention will be applied to U.S.

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officers upon U.S. ratification, even if that comes before ratification by the required twenty-five countries. Regulation II/4 paragraph 2(c) of the Convention requires one year minimum sea time for candidates for deck officer certification who are part of approved training programs. Article IX, Equivalents, offers some leeway for the use of acceptable equivalents for a portion of the sea time. For purposes of this study, it is assumed that the added requirement will be met by some method other than through use of the schoolships, such as through use of simulators and increased use of the small craft currently operated by some of the academies for additional training during the year.

The Federal Government will contribute to the cost of fuel for training cruises:

Allocation will be on an equitable basis for each cruise, considering differences in the consumption rates for the different training ships and considering differences in State and Federal operations.

Cost escalation will correspond to the economic assumptions published by the Office of Management and Budget in the Fiscal Year 1982 Budget Revisions, dated March, 1981:

Three cost escalation factors are used in the study for purposes of determining full costs for all cost elements under either alternative over the period covered by the study. Crew costs are escalated at the published rates for "Wages and salaries." All other cost elements, except ship maintenance and repair, are escalated at the published rates for the "GNP deflator." There is strong evidence that the inflation rate for ship maintenance and repair in the United States approximated 20 percent from 1979 to 1980, substantially above the 9.0 percent published rate for the GNP deflator. The higher rate is used as a base figure for 1980 but is adjusted for the projected rate of change in the GNP deflator. The economic assumptions are published for calendar years; however, they are applied in the study for the corresponding fiscal years. The published economic assumptions only cover the period through 1986, and the 1986 rates are used for 1987 and 1988. All cost estimates for the study were developed in FY 1981 dollars and escalated to the 1983-88 figures.

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The escalation factors used in the study are shown in Table 4.

Table 4
Escalation Factors
(Percent change, year over year)

	Wages and salaries	GNP deflator	Ship maintenance and repair
1982	12.03	8.3	18.44
1983	11.16	7.0	15.56
1984	9.82	6.0	13.33
1985	9.14	5.4	12.00
1986	8.82	4.9	10.89
1987	8.82	4.9	10.89
1988	8.82	4.9	10.89

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B. Operating Scenario and Assumptions Under the Two-Schoolship Alternative

(1) Operating Scenario

Based on capacity, configuration, general condition, and economy of operation, the present New York schoolship, T.S. EMPIRE STATE, and the present California schoolship, T.S. GOLDEN BEAR, have been selected as the two ships to be used for all training cruises under a two-schoolship operation. The T.S. EMPIRE STATE will serve the three East Coast schools--Maine, Massachusetts and New York--and the T.S. GOLDEN BEAR will be used for training cruises by the California and Texas academies. The operating scenarios for both ships are based upon 9-week cruises for each school served. One week before each cruise and one week after each cruise is set aside for either preparing the vessel for the cruise or clearing the vessel after the cruise. Each vessel is annually programmed for a period of 9 weeks for maintenance and repair if needed. Thus, the T.S. EMPIRE STATE will be employed thirty-three weeks of the year for its three cruises, plus nine weeks for maintenance and repair, or a total of forty-two weeks during the year. The T.S. GOLDEN BEAR will be engaged twenty-two weeks of the year for its two cruises,

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plus nine weeks for maintenance and repai[illegible] total of thirty-one weeks during the year. Thus, the T.S. EMPIRE STATE will be available for ten weeks of the year and the T.S. GOLDEN BEAR for twenty-one weeks of the year for dockside training or for other purposes, including additional voyage time to meet at-sea time required under the IMCO Convention.

Under the scenario for the T.S. EMPIRE STATE, the New York cruise will leave from New York and return to New York. A supplemental crew from the Massachusetts academy will be transported at Federal expense to New York to help bring the vessel to Massachusetts for that academy's cruise. After returning to Massachusetts to disembark cadets, the Massachusetts supplemental crew will help sail the ship back to New York, and the crew then will be transported back to Massachusetts. The same sequence will apply to the Maine cruise. The primary berth for the T.S. EMPIRE STATE will be at the New York school, because of the availability of sufficient space to dock more than one vessel.

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Under the scenario for the T.S. GOLDEN BEAR, the ship will be berthed at the California Maritime Academy and the California cruise will leave from and return to that berth. The supplemental crew and the cadets from the Texas school will be transported to California for their training cruise. After the Texas school returns the vessel to California, the supplemental crew and cadets will be transported back to the Texas school.

Since there are historical precedents for off-summer cruises under five-schoolship operations, weather has not been considered a factor in the scheduling for the two-schoolship alternative.

(2) Assumptions Under the Two-Schoolship Alternative

The Maine and Massachusetts schoolships will be laid-up in the National Defense Reserve Fleet, and Ready Reserve Fleet ships will be provided to the Maine, Massachusetts, and New York academies for use as classrooms or for other academic purposes: This assumption maintains Federal assistance to all five schools with regard to the availability of a training platform located at each school. In addition to relocating Ready Reserve Fleet (RRF) ships at the three East Coast schools, the T.S. TEXAS CLIPPER will remain berthed at the

Texas academy and will be available for dormitory needs and shoreside training purposes. The California school will have the use of the T.S. GOLDEN BEAR for the 21 weeks that the ship is not on cruise or in the shipyard for maintenance and repair (M&R). During the Texas academy cruise on the T.S. GOLDEN BEAR, a Ready Reserve Fleet (RRF) vessel will be available to the California school for training at the Suisun Bay National Defense Reserve Fleet. For the 10 weeks that the T.S. EMPIRE STATE is not on cruise or in the shipyard for M&R, it will remain idle at Fort Schuyler.

A second option has been considered for providing training platforms at the schools. Under this second option, the present schoolships would be maintained at the Maine, Massachusetts, and Texas schools. An RRF vessel would be provided to the New York school. The T. S. GOLDEN BEAR would be docked at the California academy when not on cruise or in the shipyard for M&R and, therefore, would be available part time for use as a training platform.

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Although first-year costs are considerably greater for the selected option, six-year incremental costs are essentially equal for the two options. The selected option was chosen because it has three major advantages. The first advantage of the option chosen is that the RRF vessels will enhance the level of training received by cadets at the State marine schools since the RRF ships are more modern vessels than the present training ships. A second advantage is that dispersal of RRF ships away from the James River Reserve Fleet will facilitate access to more shipyards if the RRF ships need to be activated. The third advantage is that laying-up the T.S. STATE OF MAINE and T.S. BAY STATE in the National Defense Reserve Fleet will ensure vessel availability for schoolship use when either the T.S. EMPIRE STATE or the T.S. GOLDEN BEAR needs replacement.

The Federal Government, as owner of the two vessels, will contract for nucleus shipkeeping crews to operate the vessels: The nucleus shipkeeping crews will be in charge of the vessels while in operation; control housekeeping on the vessels; and provide familiarity and continuity

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of experience with vessel operations. This continuity of experience is considered necessary where two or three schools are using a single vessel, and feelings of proprietary ownership interest have been obviated by a situation in which each academy no longer takes training cruises aboard the vessel it considers its own. Each nucleus shipkeeping crew will consist of eleven permanent billets per vessel. The nucleus crews will be fully responsible for the vessels, supplemented on cruise by officers and crew supplied by each individual academy who will conduct the training operation.

The eleven nucleus shipkeeping crew billets include the following: Master (deck), Chief Mate (deck), Chief Engineer, 1st Assistant Engineer, Bosun, Storekeeper, Chief Electrician, Assistant Electrican, and three general maintenancemen.

The Federal Government will pay transportation costs of officers, crew, and in the case of Texas, cadets from their school to the schoolship being used for training cruises, and return from the schoolship to the school:

The costs to be covered will be new Federal travel expenses not included in current travel ceilings.

The Federal Government will finance maintenance and repair expenses for the two vessels equivalent to the kinds of services subsumed under the five-schoolship alternative.

The Federal Government will pay vessel positioning voyage costs of moving the T.S. EMPIRE STATE to the Massachusetts and Maine academies for their cruises:

The costs to be covered are fuel, tug assistance, and pilotage fees.

The Federal Government will pay for consumables and expendables on all cruises, except for food:

The Maritime Education and Training Act of 1980 continues the policy set down under the Maritime Academy Act of 1958 (PL 85-672) which says that the schoolship provided to a Maritime academy "shall be repaired, reconditioned, and equipped (including supplying all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship." In the past, there have been differences of opinion between the States and Federal Government over who should pay for consumables and expendables other than food. Therefore, for the two-schoolship alternative, it will be assumed that the States will be responsible for laundry services and for providing all food [illegible] necessary for the cruises. The Federal Government will reimburse the States on a per diem basis for food for the nucleus shipkeeping crew (covered under the contract for the nucleus crew) and will pay for all other consumables and expendables except where replacement is necessitated through negligence of State school supplementary crew or cadets. The assumptions in this study concerning Federal payment for consumables and expendables are not to be taken as a commitment to cover these items under any conditions other than those of the study.

The Federal Government will cover any special costs relative to moving schoolships in order to dock the cruise vessel to embark and disembark cadets:

While there is space at the Massachusetts academy to berth the T.S. EMPIRE STATE during embarkation and disembarkation, there is no room at the Maine school. Therefore, there will be Federal costs relative to moving the RRF ship assigned to the Maine Academy during both embarkation and disembarkation for the Maine academy cruise.

IV. Discussion of Federally-Funded Costs

This section discusses the derivation of cost estimates for all of the cost elements and the options considered under the two-schoolship and the five-schoolship alternatives. Except where noted, estimates of Federal cost are expressed in 1981 dollars.

A. Two-Schoolship Alternative

(1) Expenses for maintenance of ships as stationary training platforms:

The total Federal costs for laying-up the T.S. STATE OF MAINE and T.S. BAY STATE in the James River National Defense Reserve Fleet (JRRF); providing the Maine, Massachusetts, and New York schools with Ready Reserve Fleet vessels for training platforms; maintaining the T.S. TEXAS CLIPPER for dormitory and training purposes; and maintaining the T.S. EMPIRE STATE while idled, differ considerably between first-year costs and subsequent-year costs. Under this plan, the T.S. STATE OF MAINE and T.S. BAY STATE will be steamed to Norfolk, Virginia, prior to being towed to the JRRF for lay-up. At Norfolk, one of the ships will be deactivated to the level of other National Defense Reserve Fleet vessels so it will be available as a replacement schoolship should the T.S. EMPIRE STATE or T.S. GOLDEN BEAR become unwill only be partially deactivated and placed in lay-up at a reduced level of preservation in order to provide spare parts for its sister ships. For purposes of the study, cost calculations are based on full deactivation of the T.S. STATE OF MAINE and partial deactivation of the T.S. BAY STATE. Other first-year costs under this plan are for towing RRF ships from the JRRF to Castine, Maine, to Buzzards Bay, Massachusetts, and to Fort Schuyler, New York; annual maintenance and repair costs of the T.S. TEXAS CLIPPER; and shoreside service costs for the T.S. EMPIRE STATE, including costs of air, electricity, water, telephones, and guard service, for the 10 weeks the ship is idle at Fort Schuyler. There are no incremental maintenance and repair costs for the RRF ships because those expenses will be covered by the Maritime Administration regardless of whether they are kept at the State marine schools or at the National Defense Reserve Fleet site. The only recurring costs in subsequent years of the study are for maintenance under long-term lay-up of the T.S. STATE OF MAINE and the T.S. BAY STATE at the JRRF, annual M&R of the T.S. TEXAS CLIPPER, and shoreside service costs for the idled T.S. EMPIRE STATE. The Federal costs involved are presented in Tables 5 and 6 showing first-year costs and subsequent-year costs under this option.

Table 5

First-Year Costs Under RRF Training Platform Plan

Action	Cost
- Steam T.S. STATE OF MAINE to Norfolk from Castine 1/	$ 47,000
- Steam T.S. BAY STATE to Norfolk from Buzzards Bay 1/	32,000
- Deactivate T.S. STATE OF MAINE	500,000
- Partially deactivate T.S. BAY STATE	200,000
- Tow and moor T.S. STATE OF MAINE in JRRF	20,000
- Tow and moor T.S. BAY STATE in JRRF	20,000
- Tow RRF ship from JRRF to Castine 2/	110,000
- Tow RRF ship from JRRF to Buzzards Bay 2/	82,000
- Tow RRF ship from JRRF to Fort Schuyler 2/	72,000
- Shoreside service costs and guard service for idled T.S. EMPIRE STATE 3/	47,200
- Annual M&R of T.S. TEXAS CLIPPER	110,000
TOTAL	$1,240,200

1/Assumes vessel sailed by 28-man crew supplied by the academy, and includes air fare back to the academy and subsistence for one-day layover.

2/Includes break-out, preparation, and crew.

3/Ten-week cost of air, electricity, water, telephone, guard service, etc.

Table 6

Subsequent-Year Costs Under RRF Training Platform Plan

Action	Cost
- Long-term lay-up of T.S. STATE OF MAINE in JRRF 1/	$ 25,000
- Long-term lay-up of T.S. BAY STATE in JRRF 1/	12,000
- Shoreside service costs and guard service for idled T.S. EMPIRE STATE 2/	47,200
- Annual M&R of T.S. TEXAS CLIPPER	75,000
TOTAL	$159,200

1/Annual cost for long-term lay-up, including dehumidification and cathodic hull protection.

2/Ten-week cost of air, electricity, water, telephone, guard service, etc.

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Option to retain Maine, Massachusetts, and Texas schoolships, and provide RRF vessel to New York, for use as classrooms, for other academic purposes, or for extra dormitory space-- Under the other option considered, the Federal costs for retaining the T.S. STATE OF MAINE, T.S. BAY STATE, and T.S. TEXAS CLIPPER docked at their present schools consist of maintenance and repair expenses for cathodic protection, painting, equipment breakdown, periodic drydocking, and other items relative to maintaining hull integrity. The first-year costs are estimated to be about 30 percent higher than the costs for the subsequent years covered by this study because of the initial one-time expenses necessary to prepare the vessels for their planned use. These costs assume that the vessels would not be used in the future as active schoolships and, therefore, dehumidification costs are not included. In addition to these annual M&R costs, first-year costs are included for towing a RRF ship from the JRRF to Fort Schuyler, and costs are included for shoreside services for the 10 weeks the T.S. EMPIRE STATE is idled in all years of the study. The annual costs involved are shown in Table 7.

Table 7

Federal Costs of Retention of Schoolships Not Used for Cruises 1/

Schoolship	First Year	Other Years
- Annual M&R		
o T.S. BAY STATE	$125,000	$ 85,000
o T.S. STATE OF MAINE	125,000	85,000
o T.S. TEXAS CLIPPER	110,000	75,000
SUBTOTAL	$360,000	$245,000
- Tow RRF ship from JRRF to Fort Schuyler 2/	72,000	-
- Shoreside service costs and guard service for idled T.S. EMPIRE STATE 3/	47,200	47,200
TOTALS	$479,200	$292,200

1/Based on a billing rate of $30 per labor hour.
2/Includes breakout, preparation and crew.
3/Ten-week cost of air, electricity, water, telephone, guard service, etc.

A comparison of the two options shows estimated first-year costs of $1,240,200 and subsequent-year annual costs of $159,200 under the option for NDRF lay-up and use of RRF vessels, versus estimated first-year costs of $479,200 and subsequent-year annual costs of $292,200 under the option involving retaining the existing schoolships at their present locations.

(2) Hiring of Nucleus Shipkeeping Crews

Table 8 summarizes the costs associated with maintaining nucleus shipkeeping crews aboard the T.S. EMPIRE STATE and the T.S. GOLDEN BEAR under the two-schoolship alternative. The estimates are based on a contracted operation at union wage scales. It may be possible to contract for crewing with the State schools and, thereby, gain the use of individuals already familiar with operation of the schoolships and at potentially lower cost.

The scenario used for the nucleus shipkeeping crew of the T.S. EMPIRE STATE is that the seven unlicensed personnel (Bosun, Storekeeper, two electricians, and three general maintenancemen) will work during the 33 weeks while on cruises and for six of the 10 weeks that the vessel is idle. The other four weeks of vessel idle time and the nine weeks while the vessel is in the shipyard for M&R will be used for vacations for the unlicensed crew members. For the T.S. GOLDEN BEAR, the unlicensed crew members will work during the 22 weeks connected with cruises and for 11 of the 21 weeks of vessel idle time, with 10 weeks of idle time and nine weeks of M&R time available for vacations. The contracts for both schoolships will provide for officers (Master, Chief Mate, Chief Engineer, and 1st Assistant Engineer) to be available for work 365 days a year.

The contracting costs presented in Table 8 include two items additional to wage-related costs: per diem for food for the entire nucleus shipkeeping crew while on cruise and preparing the ship before and after each cruise, and per diem for food and lodging for the four officers while in the shipyard for maintenance and repair; and a coordinator's fee or contract overhead cost.

Table 8

Annual Nucleus Shipkeeping Crew Costs

Position	T.S. EMPIRE STATE	T.S. GOLDEN BEAR	Total
Master (deck)	$67,609 1/	$64,634 1/	$132,243
Chief Mate (deck)	36,700 1/	35,113 1/	71,813
Chief Engineer	60,243 1/	58,738 1/	118,981
1st Assistant Engineer	36,700 1/	35,113 1/	71,813
Bosun	14,800	14,438	29,238
Storekeeper	11,629	11,738	23,367
Chief Electrician	15,759	12,749	28,508
Assistant Electrician	13,308	12,008	25,316
General Maintenancemen (3)	44,191	32,586	76,777
Sub-Total, Base Wages	$300,939	$277,117	$578,056
Fringes	349,981	397,861	747,842
Overtime	39,392	26,001	65,393
Total	$690,312	$700,979	$1,391,291
Per Diem (Food/lodging)			83,076 2/
Contractor Profit and Overhead			147,437
TOTAL ANNUAL COST			$1,621,804

1/ Includes non-watch pay.

2/ Based on $12 per day for all crew members while on cruise and onloading and offloading cadets, and $75 per day for the four officers while in shipyard for M&R.

(3) Fuel:

Under the two-schoolship alternative, the Federal Government will reduce fuel expenses by operating the T.S. EMPIRE STATE using Bunker C fuel rather than the Special 4 fuel currently being used by the East cost schools. Bunker C fuel is currently used in the operation of the T.S. GOLDEN BEAR. For purposes of computing fuel, estimated costs are based on nine-week cruises broken down into 47 days at sea and 16 days in port en route with all officers, crew, and cadets aboard. For the T.S. EMPIRE STATE, based upon average consumption rates of 240 barrels per day at sea and 75 barrels per day in port under hotel-load, the total fuel consumption for one cruise is 12,480 barrels, or 37,440 barrels annually for three cruises. For the T.S. GOLDEN BEAR, based upon average consumption rates of 180 barrels per day at sea and 85 barrels per day in port under hotel-load, the total fuel consumption for one cruise is 9,820 barrels, or 19,640 barrels annually for two cruises.

A ten percent fuel reserve has been added due to the volatility of recent fuel costs. This reserve is a contingency against price increases above the GNP deflator used for the study and against errors in the estimation of fuel consumption pending completion of a detailed analysis of individual consumption rates of the two schoolships under different training conditions.

Including the contingency factor, the total fuel consumption for the T.S. EMPIRE STATE is estimated at 41,184 barrels of Bunker C fuel for three cruises, and that of the T.S. GOLDEN BEAR at 21,604 barrels for two cruises. At an East coast April 1981 cost per barrel for Bunker C of $30.50, and a comparable West coast cost of $27.58, the total annual fuel cost for five cruises would be $1,851,950.

(4) Transportation of Supplementary Crews and Texas Cadets: Transportation of supplementary crews will include six separate one-way trips--four on the East Coast and two between the Gulf and West coasts. The training ship T.S. EMPIRE STATE will be sailed from the New York Maritime College to the two other academies with assistance of crews from the respective academies. Transportation will be provided for a supplementary crew of 50 people from Massachusetts to New York to pick up the ship and then from New York back to Massachusetts upon returning the ship. Likewise, transportation will be provided for a supplementary crew of 50 people from Maine to New York and back to Maine.

Projected crew sizes are based on the number of officers/crew required for 1980/81 cruises, reduced to 50 because the vessel will be moved without cadets aboard. With cadets aboard, there were 70 officers/crew manning the T.S. BAY STATE and 60 officers/crew manning the T.S. STATE OF MAINE on the 1980-81 cruises.

The two trips between the Gulf and West coasts will require that a 40-man crew, as well as 210 cadets, be flown from Texas to California and back to Texas.

Costs for transporting supplementary crews to and from the East coast schools, as well as both crew and cadets to and from the Texas school, will involve airfare for each trip and other travel expenses (e.g. taxis, buses, or other transportation between airports and the schools) estimated at 10 percent of air transportation costs.

The total estimated costs for transportation are given in Table 9.

Table 9

Cost of Transporting Supplementary Crews and Texas Cadets

Trips	Air Fare	Other Travel Expenses 1/	Total Cost
East Coast (50 passengers each trip):			
Massachusetts to N.Y.	$2,400	$240	$2,640
N.Y. to Massachusetts	2,400	240	2,640
Maine to N.Y.	4 250	425	4,675
N.Y. to Maine	4,250	425	4,675
Subtotal	$13,300	$1,330	$14,630
Gulf/West Coasts (250 passengers each trip) 2/:			
Texas to California	$66,750	$6,675	$73,425
California to Texas	66,750	6,675	73,425
Subtotal	$133,500	$13,350	$146,850
Total Cost	$146,800	$14,680	$161,480

1/ Transportation between State Marine schools and airports.
2/ Includes 40 officers/crew and 210 cadets at charter flight rates.

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(5) Maintenance and Repair:

Essentially the same base maintenance and repair cost considerations are projected for the T.S. EMPIRE STATE and T.S. GOLDEN BEAR under the two-schoolship alternative as projected for the same two vessels under the five-schoolship alternative. Because these two vessels will be used for more than one annual cruise, certain M&R cost elements which would vary with the level of cruise activity were reestimated over the six-year period of the study and are included in the total cost estimates of M&R for the two schoolships. In 1981 dollars, the M&R cost of the T.S. EMPIRE STATE during FY 1983-FY 1988 is estimated at about $11.4 million, while that of the T.S. GOLDEN BEAR is about $7.2 million over the same period. The total estimated M&R cost for the two-schoolship alternative is approximately $18.6 million in 1981 dollars.

(6) Vessel Positioning:

Under the two-schoolship alternative, the Federal Government will pay fuel, tug assistance, and pilotage costs of moving the T.S. EMPIRE STATE between Fort Schuyler, New York, and both Buzzard's Bay, Massachusetts, and Castine, Maine. The annual costs, in 1981 dollars, are estimated at $11,000 between New York and Massachusetts and $20,000 between New York and Maine, for an annual total of $31,000.

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(7) Consumables and Expendables:

Consumable stores are articles which, by the nature of their composition or intended use, (1) lose all value upon initial usage and are considered consumed when used (e.g., paint, packing, soap), (2) would be practically worthless for resale or transfer immediately after their initial use (e.g., paint brushes, mops, brooms, rope), or (3) lose their individual identity when used in a larger piece of equipment or when used in conjunction with repairs or an installation (e.g., pipe fittings, valves, fire brick, wire, fuses, sockets and plugs).

Expendable equipment refers to all items of a portable nature (sometimes secured because of weight or size) which are not a part of the ship itself and are required in the normal day-to-day maintenance and operation. Expendable equipment, due to its portable nature, lends itself to being misplaced, pilfered, or otherwise subjected to daily or frequent use, necessitating repair or replacement more often than permanent equipment (e.g., navigating instruments, cargo gear, tools, office machines, linens and bedding, galley gear, crockery, and glassware).

Consumables and expendables are also referred to as stores, supplies, and equipment (S.S. & E.) and do not include spare parts, which are included as costs under maintenance and repair. S.S. & E. costs have been estimated in two categories: start-up S.S. & E. costs and annual S.S. & E. costs. Start-up S.S. & E. costs are estimated at $50,000 for the T.S. EMPIRE STATE and $40,0000 for the T.S. GOLDEN BEAR, while annual S.S. & E. costs are about $110,000 for the T.S. EMPIRE STATE and $45,000 for the T.S. GOLDEN BEAR. Therefore, first year costs for consumables and expendables are estimated at $245,000, and subsequent year costs are estimated at $155,000 in 1981 dollars.

(8) Repositioning the Maine Academy Ship:

An additional Federal cost of approximately $8,000 will be incurred in moving the RRF ship assigned to the Maine Academy while the T.S. EMPIRE STATE is embarking and disembarking for the Maine academy cruise. This estimate is based on a cost of $2,000 for shifting the vessel either away from or back to its berth on the two occasions that the ship must be moved. It assumes that the Maine academy provides whatever crew is necessary for moving the vessel.

B. Five-Schoolship Alternative

(1) Maintenance and Repair:

The estimated cost of maintenance and repair for the existing five schoolships is based on the work program for 1983 shown in Table 2. This program has been reassessed and reduced to a 1983 budget funding level of $9.4 million. Many of the specific work items shown in Table 2 will be completed in 1983 within the proposed $9.4 million budget. However, the history of the schoolship M&R program (Table 1) indicates that costs have risen dramatically in recent years and, considering the age and condition of the existing ships, it is estimated that continued funding at approximately the 1983 level will be required to maintain these ships in reasonable operating condition through 1988. The annual estimates have been adjusted to reflect non-recurring costs associated with dry docking and other unique requirements for U.S. Coast Guard and American Bureau of Shipping inspections.

(2) Fuel:

Fuel cost estimates are based on annual training cruise consumption rates of 12,500 barrels of Special 4 fuel per cruise for the three sister ships, the T.S. BAY STATE, T.S. EMPIRE STATE and T.S. STATE OF MAINE, and annual consumption rates of 10,000 barrels of Bunker C fuel per training cruise for the T.S. GOLDEN BEAR and the T.S. TEXAS CLIPPER. Based on April 1981 fuel prices, the 57,500 barrels of fuel under the five-schoolship alternative will cost $2,338,500 in 1983 dollars.

V. Concluding Observations Concerning the Economic Feasibility of Consolidating Federally-Funded Activities at the State Marine Schools

- Funding of operation and of maintenance and repair of the schoolships provided to the State maritime academies by the Federal Government is the only element of Federally-funded activities that might be consolidated. Table 10 displays the Federal costs associated with consolidating training cruises using only two schoolships and the Federal costs associated with continuing independent training cruises using the existing five schoolships in the 1983-1988 time frame.

- Federal costs over the six-year period would be almost $30 million less under the two-schoolship alternative than under the existing five-schoolship arrangement.

- Replacing the T.S. BAY STATE with the S.S. TULARE would increase maintenance and repair costs under the five-schoolship alternative by $10-20 million.

- Approximately 92 percent of total six-year costs under the two-schoolship alternative is accounted for by three items: maintenance and repair (45 percent), nucleus shipkeeping crews (24 percent), and fuel (23 percent).

- Ship maintenance and repair cost estimates, using two schoolships for training cruises, equal 37.1 percent of projected costs for maintaining the present five ships over the six-year period. The annual amount ranges from a high of 43.3 percent to a low of 31.6 percent. Although this ratio fluctuates from year to year, it generally follows a declining pattern reflecting the greater costs associated with maintaining five aging ships.

- Due to the use of Bunker C instead of Special 4 fuel on the T.S. EMPIRE STATE, fuel cost estimates over the six-year period are approximately 10 percent less under the two-schoolship alternative than under the five-schoolship alternative, despite the addition of a contingency reserve to two-schoolship fuel costs.

- The trend in the cost difference between the two alternatives basically reflects a steadily widening cost differential from about $1.6 million in the first year to about $7.2 million in the sixth year.

Table 10
Comparison of Federally-Funded Costs Under the Two-Schoolship and Five-Schoolship Alternatives
FY 1983-FY 1988

Cost Element	1983	1984	1985	1986	1987	1988	SIX YEAR TOTAL
Two-Schoolship Alternative							
Maintenance and repair of 2 ships used for training cruises	$4,036,800	$4,844,631	$3,791,133	$5,524,244	$[illegible],661,801	$6,221,091	$29,079,700
Maintenance of ships as stationary training platforms	1,437,157	195,552	206,112	216,211	226,805	237,919	2,519,755
Nucleus shipkeeping crews	2,019,674	2,218,006	2,420,732	2,634,241	2,866,581	3,119,413	15,278,647
Supplementary crew & cadet transportation	187,125	198,252	209,063	219,307	230,053	241,326	1,285,226
Fuel	2,146,058	2,274,821	2,397,661	2,515,146	2,638,388	2,767,609	14,739,743
Vessel positioning - movement of East coast ship between schools	35,923	38,078	40,134	42,100	44,163	46,327	246,725
Consumables and expendables	283,908	190,393	200,674	210,507	220,822	231,643	1,337,946
Repositioning the Maine Academy ship to berth the cruise ship	9,270	9,826	10,357	10,864	11,396	11,954	63,667
TOTAL: 2 Schoolships	$10,155,915	$ 9,969,659	$ 9,275,866	$11,372,620	$10,900,009	$12,877,340	$64,551,409
Five-Schoolship Alternative							
Maintenance and Repair of 5 ships	$ 9,400,000	$11,188,000	$11,980,000	$13,994,000	$14,731,000	$17,086,000	$78,379,000
Fuel	2,338,900	2,4[illegible],810	2,612,666	2,740,687	2,874,981	3,015,855	16,061,499
TOTAL: 5 Schoolships	$11,738,900	$13,666,810	$14,592,666	$16,734,687	$17,605,981	$20,101,855	$94,440,499
Difference:							
Cost Reduction under the Two-Schoolship Alternative	$1,582,985	$3,697,151	$5,316,800	$5,362,067	$6,705,972	$7,224,515	$29,889,090

ATTACHMENT 1

12th District, Massachusetts

Washington Office:
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Washington, D.C. [illegible]
[illegible]

Committees:
Foreign Affairs
Merchant Marine and Fisheries

Chairman:
Subcommittee on
Coast Guard and Navigation

Congress of the United States
House of Representatives
Washington, D.C. 20515

Greater New Bedford
Post Office Building
New Bedford, Massachusetts [illegible]
[illegible]

South Shore
[illegible] Washington Street
[illegible]
[illegible]

Cape and Islands
146 Main Street
Hyannis, Massachusetts [illegible]
617-771-[illegible]

May 19, 1981

Dear Mr. Nemirow:

On May 13, the Merchant Marine and Fisheries Committee approved the Maritime Administration authorization bill for fiscal year 1982, H.R. 2526. The bill contains a section adopted at the subcommittee mark-up which requires the Secretary of Commerce to

> "...conduct a study comparing the relative costs of repairing and outfitting the Training Vessel Bay State with the costs of re-activating and converting the SS Tulare of the U.S. Naval Reserve fleet, in order to aid in the determinati of the appropriate vessel for use as the training ship of the Massachusetts Maritime Academy. This study shall be completed and submitted to the Congress within 90 days of the enactment of this Act."

Because it is highly probable that this amendment will be contained in the language of the bill that reaches the President's desk, we would urge you to commence this study as soon as possible, that is, while the Bay State is undergoing repairs at the Norfolk (VA) shipyard and the Tulare is laid up in San Francisco.

This amendment was developed in order to make certain that Massachusetts Maritime Academy will have a safe and dependable training vessel, and because we believe that a promptly conducted comparative cost study is the best way to achieve this goal. It is essential that such a study include an analysis of the costs of repairing, outfitting and maintaining the two vessels involved throughout the coming decade.

We believe that the study should include a cost-analysis of the age and condition of the various components of the vessels as well as the availability of spare parts to replace those parts which are wasted or worn out. We are also aware that the agency may be able to make use of the expertise or information already developed by other federal agencies or private organizations, and that to some extent, various cost-analyses of the Bay State have already been performed. In addition, it is our hope that you will work closely with the President of Massachusetts Maritime Academy and remain cognizant of the academy's needs and suggestions with respect to the development of this study.

We hope that you will be able to honor our request, realizing that timing is an important element in this matter.

Sincerely,

Thomas P. O'Neill, Jr.
Speaker of the House

Gerry E. Studds
Member of Congress

Edward M. Kennedy
U.S. Senator

Brian J. Donnelly
Member of Congress

Paul E. Tsongas
U.S. Senator

Silvio O. Conte
Member of Congress

Margaret Heckler
Member of Congress

Barney Frank
Member of Congress

Mr. Samuel B. Nemirow
Assistant Secretary for Maritime
Affairs
Department of Commerce
Washington, D.C. 20230

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STATE MARITIME ACADEMY SEA TRAINING PROPOSAL
(FIVE STATE "SALT-WATER" ACADEMIES)

MARITIME ADMINISTRATION
July 1982

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EXECUTIVE SUMMARY

This report presents the finding of a comprehensive study on the feasibility of meeting the increased sea training requirement for deck cadets on small training craft. The findings are as follows:

1. It is possible and practicable to meet the 1 year sea training requirement of IMCO by using 2 large training ships, which would be rotated among the academies and 5 small training craft, with one assigned to each salt water academy.

2. The Federal savings in the first 5 years resulting from the reduction of the 5 training ships to 2 active ships would more than offset the construction cost of 5 small training craft.

3. The construction cost of 5 small training craft is estimated at about $22.3 million (FY 1984 dollars).

4. The proposal assumes that the Federal Government will provide the fuel oil for the cruises on the training ships; the cost to the academies of operating the small training craft would be more than offset by their savings in fuel oil costs.

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STATE MARITIME ACADEMY SEA TRAINING PROPOSAL
(Five "Salt-Water" Academies)

INTRODUCTION

The purpose of this document is to present a proposed solution to the problem of sea training for State Maritime Academy cadets. Each school must provide a required amount of practical sea training and experience to its cadets as part of the school's curriculum. Continuation of the current practice in which each of the five "salt-water" academies has a separate training ship available exclusive to it, is doubtful. Further, the IMCO Standards of Training, Certification and Watchkeeping Convention, 1978 states requirements affecting sea time for deck cadets, which require responsive action.

The proposal consists of providing:

1. two active training ships shared by the five schools;
2. five specially constructed small training craft (one for each of the "salt-water" schools) to be used during the academic year;
3. ships alongside each school for laboratory and training use.

If adopted, this proposed solution resolves the sea-training issue, including the IMCO Convention issue, for the foreseeable future. At present hull corrosion rates, serious difficulties are not anticipated for 10-15 years.

I. DISCUSSION OF THE PROBLEM

1. Existing Training Ships: Age, Cost, Lack of Replacements

Under the Merchant Marine Act, 1936, as amended by the Maritime Education and Training Act of 1980 (46 U.S.C. 1295), the Maritime Administration furnishes, and maintains for training purposes, a suitable vessel to each of five State maritime schools for use as a training ship. The five States with training ships assigned to their respective academies are California, Maine, Massachusetts, New York, and Texas.

The current fleet of training ships is an assortment of vessels which are limited in their usefulness as training ships. They range from 30-42 years in age and vary in condition. They are not comparable to training ships provided by several major maritime nations which use vessels specifically designed for training. Ship maintenance and repair (M&R) has been limited to the work most necessary for meeting mandatory operational and safety levels.

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Since 1977, the basic maintenance and repair costs for the five State marine schoolships have increased from about $2.1 million to $7.5 million, and continuing increases are projected for the future. Table 1 displays the M&R costs for the seven year period, FY 1977-FY 1983, by schoolship.

As part of recent studies, an examination was conducted of potential training ship replacement vessels maintained in the National Defense Reserve Fleet, other idled vessels, and ships presently being operated commercially. None of the vessels examined, has the desirable configuration for use as a schoolship. Training ship requirements of accommodation for a complement of up to 800 officers, crew, and cadets with extensive spaces for training, adequate lifesaving equipment, and acceptable habitability make the costs of conversion for training ship use quite high even when the current configuration is close to the desired configuration. A study of reactivating and converting the TULARE to replace the present T.S. BAY STATE showed a cost of approximately $12 million. Since no appropriately configured ships other than the existing schoolships are available at a reasonable cost, it is assumed that no adequate schoolship replacement vessels will be available in the time frame of this proposal that will present a less costly Federal option for providing schoolships to the State academies.

Also studied was the acquisition of two new and specifically designed and constructed maritime training vessels. The proposed new ship design incorporated special deck and engine training features to facilitate "hands-on" training which do not exist in other ships. The cost of $170 million for the new vessels was considered prohibitive, and they were dropped from consideration.

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Table 1

State Schoolship M&R Costs

1977-1983

($000's)

stern Region	1977	1978	1979	1980	1981	1982*	1983*
S. EMPIRE STATE (New York)	$ 264	$ 343	$ 500	$ 852	$ 406	$2,150	$2,461
S. BAY STATE (Massachusetts)	640	928	60 1/	4,343 2/	4,392 3/	4,149 4/	1,726
S. STATE OF MAINE (Maine)	511	395	1,040	1,684	847	1,750	1,938
Sub-Total	$1,415	$1,666	$1,600	$6,879	$5,647	$8,049	$6,125
S. GOLDEN BEAR (California)	340	374	385	443	449	650	650
S. TEXAS CLIPPER (Texas)	365	330	385	502	495	700	693
TOTAL	$2,120	$2,370	$2,370	$7,824	$6,591	$9,399	$7,469

Estimated; includes dollars for expected contingency items that may not subsequently be funded.

In 1979, the Massachusetts training ship, T.S. BAY STATE (ex S.S. HENRY GIBBONS), was withdrawn from schoolship service. The New York State schoolship, T.S. EMPIRE STATE, was loaned to the Massachusetts Maritime Academy for training cruise in 1979.

The new T.S. BAY STATE (formerly the USNS GEIGER) was activated in 1980. M&R costs include approximately $4.0 million in activation costs.

Includes $363,000 for activation costs additional to those covered in 1980.

Preliminary estimate to include funding to repair fire damage incurred in December 1981.

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2. Need for Practical Training and Experience

The need for practical training and experience for future merchant marine officers was evident from the very outset of the program. From the time in 1874 when Cdr. Luce sailed the Navy Sloop of War ST. MARY'S from Boston to New York City, in response to legislation authorizing assistance to State nautical schools, the value of practical hands-on training and experience was recognized and incorporated in the curriculum.

Aboard a training ship, the training is intense, broad ranged, targeted and individualized. The training includes a preliminary period of intensive shakedown training and subsequent advanced underway training, all under the critical eyes of competent licensed instructors. Every effort is made to insure that cadets develop the proficiency required to become competent merchant marine officers.

Upon obtaining the Third Mate's or Third Assistant Engineer's license which is based on having successfully completed the appropriate course of study and passing a written examination, the graduate can then serve on any merchant vessel in this capacity. Typically, the master and other officers are unsure of the capabilities of the new Third Mate or Third Assistant Engineer for some period of time, due to his or her limited hands-on experience at sea.

Responsibile ship operators, labor organizations and schools/academies are constantly striving to improve the capabilities of the mariner and the vessel. This is evidenced by the close cooperation in the achievement of international agreements pertaining to training, manning, ship design, rules of the road, bridge operations and instrumentation. Continued progress in each of these areas is necessary to improve maritime safety.

The preparedness of the deck cadet for 3rd Mate responsibilities has been the subject of international concern, resulting in an Intergovernmental Maritime Consultative Organization (IMCO) recommendation for an increase in the amount of at sea time required prior to obtaining a 3rd Mate's license. The following text will discuss the recommendation in greater detail.

II. STCW CONVENTION, 1978

The IMCO Standards of Training, Certification and Watchkeeping (STCW) Convention, 1978, (STCW Convention) has a direct impact in the area of sea training of candidates for deck officer certification. Regulation II/4 of the STCW Convention is entitled: "Mandatory Minimum Requirements for Certification of Officers in Charge of a Navigational Watch on ships of 200 Gross Register Tons or More." The portion of this Regulation which is of specific concern to the deck cadet training programs of the salt water States academies is the following:

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"2. Every candidate for certification shall:

a. . . .

b. . . .

c. Have approved sea-going service in the deck department of not less than three years which shall include at lease six months of bridge watchkeeping duties under the supervision of a qualified officer; however and Administration may allow the substitution of a period of special training for not more than two years of this approved sea-going service, provided the Administration is satisfied that such training is at least equivalent in value to the period of sea-going service it replaces."

The obvious difficulty which the final text presents to the academies' training programs for new mate candidates is the apparent requirement for a minimum of one year's actual sea-time. The academies currently provide six months of on-board training within their four year program, using government-owned and maintained training ships dedicated solely to cadet training.

There is little, if any, guidance provided in Regulation II/4 concerning the quality and training effectiveness of the sea experience required by this regulation. Narrowly reading the Regulation, without any broader term of reference, it would appear that the maritime academy programs are faced with a "time-clock punching" problem unrelated to training content, quality or effectiveness. However, this broader issue was recognized in the Convention and a special provision was made to accommodate and encourage equivalent or more effective training programs than are sketched out in the Regulations. Article IX of the Convention reads as follows:

> "Article IX
>
> Equivalents
>
> 1. The Convention shall not prevent an Administration from retaining or adopting other educational and training arrangements, including those involving sea-going service and shipboard organization especially adopted to technical developments and to special types of ships and trades, provided that the level of sea-going service, knowledge and efficiency as regards navigational and technical handling of ship and cargo ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to the requirements of this Convention.
>
> 2. Details of such arrangements shall be reported as early as practicable to the Secretary General who shall circulate such particulars to all parties."

In conjunction with the academies, MARAD developed an equivalency package which was submitted to Coast Guard in 1980. The key elements of the proposal were as follows:

DRAFT

1. structured training ship training in a controlled and supervised environment - worth more than day for day credit, specifically 1.5 to 1.
2. training on small craft to supplement schoolship time.
3. special credit for radar simulator courses.
4. credit for hands on training while the training ship is alongside.
5. credit for shiphandling simulator training.

After reviewing the proposal and cnsidering the fact that MARAD may not be able to provide simulator training, Coast Guard indicated that for:

1. Training ships - day for day credit plus bonus for keeping cadets occupied more than 8 hours a day. Credit to be given on the basis of cruise status (whether under-way or not as long as watches are maintained).
2. Small craft - credit to be very liberal. Small number of cadets to be fully involved, critical type evolutions (piloting, anchoring, mooring, fire & boat drill, shiphandling man overboard). Concentrated training.
3. Dockside Time - give indoctrination credit dependent upon true contribution to total program.
4. Simulator - to be evaluated on a case by case basis being quite liberal where quality of instruction warrants.

It should be noted that the equivalency package is only concerned with candidates for deck officer certification. Candidates for engine officer certification are not so impacted by the Convention. Regulation II/4 which is entitled: "Mandatory Minimum Requirements for Certification on Engineer Officers in Charge of a Watch in a Traditionally Manned Engine Room or the Designated Duty Engineer Officer in a Periodically Unmanned Engine Room" provides, in part:

> "2. Every candidate for certification shall:
>
> (a) . . .
>
> (b) . . .
>
> (c) . . .
>
> (d) have completed an adequate period of sea-going service which may have been included within the period of three years stated in sub-paragraph (c)."

The Convention will enter into force 12 months after the date on which not less than 25 countries, the combined merchant fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping of

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ships of 100 gross register tons or more, have become parties to it. As of March, 1982, a total of 16 countries have approved the Convention. While the U.S. has not yet ratified the Convention, it is expected that it will do so.

III. CONSOLIDATION (SHARING) OF TRAINING SHIPS

As a cost cutting measure, it is proposed that only two of the current five schoolships be operated for cruises by all five acdemies, rather than retaining the current five schoolship operation. The costs of this proposal, and a comparison to current procedures for sea training, are discussed in a later section. This section describes the operating scenario for providing comparable training using only two of the five existing ships to meet at-sea requirements, and the assumptions underlying that scenario.

The cost analysis examines the economic feasibility of the two-schoolship alternative for five fiscal years, 1984 through 1988. This limitation is based on the present expectancy under current practices of maintaining all five vessels in operation with regard to unexpected occurrences that would shorten the life span of any of the vessels involved in either alternative. The cost calculations anticipate basic maintenance and repair commensurate with extra use of the vessels under the two-schoolship alternative. Therefore, the life expectancy of the vessels does not change. It is realized that the use of FY 1988 as the expected end point for one of the five schoolships as an operable training vessel is too definitive. Theoretically, the life off the vessel is extended each year that basic maintenance and repair is carried out. However, given a level of funding for maintenance and repair that does not include substantial rehabilitation work, including training platform improvements, under a positive life-extension program, there comes a point at which one of the vessels will no longer be operable for continued use as a training ship. Under a program providing only basic maintenance and repair, it is estimated that the point at which one of the existing five training ships will have to be replaced is at the end of FY 1988.

Operating Scenario and Assumptions Under the Sharing of Training Ships

(1) Operating Scenario -

Based on capacity, configuration, general condition, and economy of operation, the present New York schoolship, T.S. EMPIRE STATE, and the present California schoolship, T.S. GOLDEN BEAR, have been selected as the two ships to be used for all training cruises under a two training ship operation. The T.S. EMPIRE STATE will serve the three East Coast schools - Maine, Massachusetts and New York - and the T.S. GOLDEN BEAR will be used for training cruises by the California and Texas academies. The operating scenarios for both ships are based upon 9-week cruises for each school served. One week before each cruise and one week after each cruise is set aside for either preparing the vessel for the cruise or clearing the vessel after the cruise. Each vessel is annually programed for a period of 9 weeks for maintenance and repair as needed. Thus, the T.S. EMPIRE STATE will be employed thirty-three weeks of the year for its three cruises, plus nine weeks for maintenance and repair, or

DRAFT

a total of forty-two weeks during the year. The T.S. GOLDEN BEAR will be engaged twenty-two weeks of the year for its two cruises, plus nine weeks for maintenance and repair, or a total of thirty-one weeks during the year. The T.S. EMPIRE STATE will be available for ten weeks of the year and the T.S. GOLDEN BEAR for twenty-one weeks of the year for dockside training or for other purposes.

Under the scenario for the T.S. EMPIRE STATE, the New York cruise will leave from New York and return to New York. A supplemental crew from the Massachusetts Academy will be transported at Federal expense to New York to help bring the vessel to Massachusetts for that academy's cruise. After returning to Massachusetts to disembark cadets, the Massachusetts supplemental crew will help sail the ship back to New York, and the crew then will be transported back to Massachusetts. The same sequence will apply to the Maine cruise. The primary berth for the T.S. EMPIRE STATE will be at the New York school, because of the availability of sufficient space to dock more than one vessel.

Under the scenario of the T.S. GOLDEN BEAR, the ship will be berthed at the California Maritime Academy and the California cruise will leave from and return to that berth. The supplemental crew and the cadets from the Texas school will be transported to California for their training cruise. After the Texas school returns the vessel to California, the supplemental crew and cadets will be transported back to the Texas school.

Since there are historical precedents for off-summer cruises under five-schoolship operations, weather or academic schedules have not been considered factors in the scheduling for the two-schoolship alternative.

(2) Assumptions -

*The annual number of State maritime school cadets to receive at-sea training on the schoolships during FY 1984-FY 1988 will remain constant at present levels.

The five academies are close to, if not at, their potential capacities. Due to the expected stringent financial conditions at both the State and Federal level during the period involved, no near-term changes in present cadet levels are anticipated. Therefore, the cadet cruise complements for the five schools will be as shown in Table 2 for each year of the proposal, based on the most recent cruise complements for all schools except Massachusetts, for which the numbers represent current enrollment.

DRAFT

Table 2

Projected Cadet Cruise Complements, FY 1984-FY 1988

School/Vessel	Number of Cadets[1]
State University of New York Maritime College T.S. EMPIRE STATE	680
Massachusetts Maritime Academy T.S. BAY STATE	656
Maine Maritime Academy T.S. STATE OF MAINE	330
California Maritime Academy T.S. GOLDEN BEAR	370
Texas Maritime College T.S. TEXAS CLIPPER	210

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[1] All present cruises include cadets from three academic classes except Maine's, which only includes cadets from two classes. It is assumed that the one Maine class that currently sails on commercial vessels will continue to do so through 1988.

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*The extra six months of at-sea training that would be necessitated by ratification of the IMCO Convention requiring one year of at-sea training or its equivalent will be covered by some method other than use of the schoolships.

*The Federal Government will contribute to the cost of fuel for training cruises.

Allocation will be on an equitable basis for each cruise, considering differences in the consumption rates for the different training ships and considering differences in State and Federal operations.

*The present Maine and Massachusetts schoolships will be laid-up in the National Defense Reserve Fleet, and Ready Reserve Fleet ships will be provided to the Maine, Massachusetts, and New York academies for use in practical training or for other academic purposes.

This assumption maintains Federal assistance to all five schools with regard to the availability of a training platform located at each school. In addition to relocating Ready Reserve Fleet (RRF) ships at the three East Coast schools, the T.S. TEXAS CLIPPER will remain berthed at the Texas Academy and will be available for dormitory needs and practical training purposes. The California school will have the use of the T.S. GOLDEN BEAR for the 21 weeks that the ship is not on cruise or in the shipyard for maintenance and repair (M&R). During the Texas Academy cruise on the T.S. GOLDEN BEAR, a Ready Reserve Fleet (RRF) vessel will be available to the California school for training at the Suisun Bay National Defense Reserve Fleet. For the 10 weeks that the T.S. EMPIRE STATE is not on cruise or in the shipyard for M&R, it will remain idle at Fort Schuyler. One advantage of this plan is that the RRF vessels will enhance the level of training received by cadets at the State marine schools since the RRF ships are more modern vessels than the present training ships. A second advantage is that dispersal of RRF ships away from the James River Reserve Fleet will facilitate access to more shipyards if the RRF ships need to be activated. The third advantage is that laying-up the T.S. STATE OF MAINE and the T.S. BAY STATE in the National Defense Reserve Fleet will ensure vessel availability for schoolship use when either the T.S. EMPIRE STATE or the T.S. GOLDEN BEAR needs replacement.

*The Federal Government, as owner of the two vessels, will contract for nucleus shipkeeping crews to maintain the vessels.

The Federal Government, as owner of the two vessels, will contract for nucleus shipkeeping crews to maintain the vessels. The nucleus shipkeeping crews will not be in charge of the training functions of the vessels but will control housekeeping and maintenance, and in cooperation with each school using the vessels, provide continuity of experience in technical operations of the vessels and their machinery plants. Each nucleus shipkeeping crew will consist of eleven permanent billets per vessel.

The eleven nucleus shipkeeping crew billets include the following: Master, Chief Mate, Chief Engineer, First Assistant Engineer, Bosun, Storekeeper, Chief Electrician, Assistant Electrician, and three general maintenance men. The nucleus crew Master will have full responsibility as Master of the vessel

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when the vessel is not in training status. The responsibilities and authority of the nucleus crew when the vessel is in training status and officers of an academy are on board, will be established in a written document to be developed and agreed to between the Maritime Administration and the academies.

It is proposed that when the vessels are in training cruise status, the academy using the vessel for training assume full operational responsibility for the vessel under an academy Master assigned in accordance with the Regulations. The nucleus crew Master will then be on board as owner's representative. Members of the nucleus crew would not be in charge of watches or be responsible for direction of vessel operations but continue in their housekeeping and maintenance functions as directed by the nucleus crew Master who would coordinate their activities with the vessel Master and other academy-assigned personnel under the vessel Master. Details of these and other aspects of the relationship and responsibilities of the parties will be set out in the written document to be developed.

*The Federal Government will pay transportation costs of officers, crew, and in the case of Texas, cadets from their school to the schoolship being used for training cruises, and return from the schoolship to the school.

The costs to be covered will be new Federal travel expenses not included in current travel ceilings.

The Federal Government will finance maintenance and repair expenses for the two vessels equivalent to the kinds of services subsumed under the present operation of five schoolships.

*The Federal Government will pay vessel positioning voyage costs of moving the T.S. EMPIRE STATE to the Massachusetts and Maine academies for their cruises.

The costs to be covered are fuel, tug assistance, and pilotage fees.

*The Federal Government will pay for consumables and expendables on all cruises, except for food.

The Maritime Education and Training Act of 1980 continues the policy set down under the Maritime Academy Act of 1958 (PL 85-672) which says that the schoolship provided to a Maritime academy "shall be repaired, reconditioned, and equipped (including supplying all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship." In the past, there have been differences of opinion between the States and Federal Government over who should pay for consumables and expendables other than food. Therefore, for the two-schoolship operation it will be assumed that the States will be responsible for laundry services and for providing all food necessary for the cruises. The Federal Government will reimburse the States on a per diem basis for food for the nucleus shipkeeping crew (covered under the contract for the nucleus crew) and will pay for all other consumables and expendables except where replacement is necessitated through negligence of State school supplementary crew or cadets. The assumptions in this proposal concerning Federal payment for consumables and expendables are not to be taken as a commitment to cover these items under any conditions other than those of the proposal.

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*The Federal Government will cover any special costs relative to moving schoolships in order to dock the cruise vessel to embark and disembark cadets.

While these is space at the Massachusetts Academy to berth the T.S. EMPIRE STATE during embarkation and disembarkation, there is no room at the Maine school. Therefore, there will be Federal costs relative to moving the RRF Ship assigned to the Maine Academy during both embarkation and disembarkation for the Maine Academy cruise.

IV. Use of Small Training Craft

1. Proposed Vessel Characteristics

In conjunction with the five State maritime academies, MARAD will develop a standard vessel using stock indusrial offshore vessel standards and prepare a bidding package in the form of a Request For Proposal for the construction of five small training craft.

Each of the small training craft will be designed and built to meet all applicable USCG, ABS and MARAD requirements including a one-compartment standard of subdivision and fire-proof construction. Minimum habitability standards will be met and special emphasis given to designing the vessel to current merchant marine operation procedures.

The mission analysis, basic design parameters, machinery and propulsion are all discussed in the attahed Concept Design Study - PD-271. For discussion purposes, Scheme D was selected as best meeting the stated mission requirements.

The proposed characteristics are:

General Characteristics	
Length Overall (Approximate)	132'
Length between perpendiculars	110'
Beam	26'
Draft	10'
SHP (Rated)	950
Speed (Knots)	14

Weight Estimate (Approximate)	
Structure	172
Outfit	80
Machinery	32
Total Light Ship Including Margin	284 Long Tons

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Deadweight (Approximate)

Fuel and Lube Oil	24
Potable Water	15
Stores	5
Crew, Cadets and Effects	4
Total Deadweight	48 Long Tons
Total Displacement	332 Long Tons

2. Capacity to Provide Training

Each State maritime school will be provided with a single small training craft. Each small craft will have the capacity to carry 30 cadets and up to six crew members on either day trips or extended cruises.

For the purposes of estimating sea training schedules, it is assumed that each small craft will carry 25 deck cadets and five engine cadets on [illegible] day trip or extended cruise. The training acquired by the engine cadets will be additional training, not applicable to either Coast Guard licensing or meeting IMCO requirements, since the six months of at-sea training required for engine cadets will still be acquired on the shared training ships.

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TRAINING CRAFT AVAILABILITY

1. Drydock time -

   Drydocking will be required every four years for an ABS survey. Though the drydock time will be two days or less, the entire survey will take longer. Two days per year should be allowed for survey time.

2. Incidental repairs -

   Due to the operational profile of the vessels, (repeated docking and undocking by cadets) it is expected that the incidental repairs required will be substantially more than on tugs or tug/supply boats. Ten days per year should be allowed for incidental repairs.

3. Periodic and preventive maintenance -

   It is anticipated that preventive maintenance will be performed as part of cadet training or will be scheduled so as not to interfere with craft operations.

4. Summary -

   The vessel availability is as follows:

Days in year:	365 days
Less -	
Drydock time	2 days
Incidental repairs	10 days
Days available	353 days

V. Proposed Sea Training Schedules

In order to estimate the small craft operating time requirements to meet the extra six months of at-sea training which would be required for deck cadets to meet the provision of the IMCO convention, it is necessary to know the number of deck cadets involved at each State marine school. This information is presented in Table 3. The enrollments were taken from the January 1982 monthly report submitted by each academy on "Student Recapitulation and Status of Maritime Subsidies."

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Table 3
State Academy Deck Cadets By Class as of January 1982

School	Freshmen	Sophomores	Juniors	Seniors	Total
Maine	64	48	64	56	232
Massachusetts	91	71	89	79	330
New York	136	89	91	92	408
California	58	73	62	43	236
Texas	100	37	44	37	218

A worst case analysis has been conducted to determine the maximum small training craft operating time requirement. Based on figures in Table 3, New York's 408 deck cadets represents the largest enrollment and heaviest scheduling demand. Although New York represents the worst case, small craft operation requirements have been calculated for all five schools.

The analysis of the time required to achieve the equivalent of six months of training using small craft is based on the following assumptions:

- Cadets are scheduled in sections, and the academies will have considerable flexibility in the use of small craft to attain sufficient training to meet the six month requirement. The academies will be able to provide small craft training in as little as two or four hour blocks, and in trips of as many as five or more days of training.
- The amount of time added to school schedules to meet the new IMCO requirements will be accomplished by additions to current academic loads, rather than by extending the time of student enrollment beyond its present duration.
- Each State academy will have to establish its own small craft training schedule to accommodate its specific requirements for instructional crew.
- The small craft will be used on overnight dock-to-dock trips with two watch systems of six hours on and six hours off. The U.S. Coast Guard will acknowledge 12 hours of training in a 24-hour continuous at-sea period. Therefore, there is a 1.5 multiplier effect for overnight trips compared to 8-hour, day only trips.
- The impact of weather, ice conditions, and similar potential impediments to sailing are difficult to quantify in terms of the effect upon the number of sailing days available to each academy. However, it is recognized that for the three East Coast schools in northern latitudes, this is an additional factor that must be taken into account.
- Small craft training is considered to be concentrated training for which there will be a three for one equivalency (i.e., three hours of credit for every one hour of training).
- One month is the equivalent of 30 days useable for training.
- Enrollment levels shown in Table 3 represent constant year-to-year average enrollment levels for the five academies.

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The calculations made to determine the number of cadet training days available and the number of small craft training days required during a four school year period for the 408 New York Academy cadets are shown in Tables 4 and 5. The calculation of training days required is based on obtaining 50 percent of the required training time on single 8-hour day trips and 50 percent on overnight trips.

Table 4
Cadet Training Days Available

1.	Number of months available in 4 academic years (September of year 1 through May of year 4)	45 months
2.	Less 6 months set aside for at-sea training on training vessels	39 months
3.	Less 7 months set aside for summer breaks, holiday breaks, preparation for cruise, and completion of work upon return from cruise	32 months
4.	Days available for small craft training (32 months times 30 days per month)	960 days

Table 5
Small Craft Training Days Required

1.	Each deck cadet requires a level of training comparable to 6 months of training at 30 days per month at 8 hours per day	1,440 hours
2.	Number of hours required for each deck cadet at 3 to 1 equivalency	480 hours
3.	Number of hours required for 408 deck cadets	195,840 hours
4.	Number of small craft hours required at 25 deck cadets capacity of small craft	7,834 hours
5.	Number of small craft training days required:	
	(a) 8-hour training days	490 days
	(b) overnight training	326 days
6.	Total number of small craft training days required at 50 percent day - 50 percent overnight training	816 days

Based upon Tables 4 and 5, 816 of the 960 days available would be required for small craft training. The excess 144 days give some flexibility to account for such contingencies as makeup days for cadets on sick leave, weather delays, and emergency small craft repair days.

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The calculations presented are based on training divided evenly between single day trips of eight hour duration in the small training craft and full day overnight trips. If the number of small craft hours required is calculated only on single day 8-hour trips, the number of small craft training days required increases. At 3 to 1 equivalency, 979 days are required, when training time is accumulated only on 8-hour trips. Thus, with only 960 training days available, training sufficient to meet the six months extra sea time requirement cannot be accomplished through the exclusive use of small craft. Unless the training includes some overnight trips, small craft training would have to be combined with credit for dockside hands-on indoctrination and training, bonus credit for ten hour cruise days on the training ships, or some other such sea training equivalency.

If an equivalency rate of 4 to 1 is allowed for small craft training, rather than a 3 to 1 rate, the number of days required for small craft training is reduced by approximately one-fourth. Under the scenario of 50 percent training in day trips and 50 percent in overnight trips, required training days decrease from 816 to 612. Under the scenario of all training in 8 hour day trips, the decrease is from 979 to 734 days.

Based upon the total number of deck cadets in Table 3, estimates were made for the other four State maritime academies in terms of percentages of available training time required for operations. Estimates were derived for 3 to 1 and 4 to 1 equivalency rates under each of the two scenarios: 50 percent of training in single 8-hour day trips and 50 percent in overnight trips, and all small craft training in single 8-hour days. The figures for all five academies are shown in Table 6.

Table 6

Estimated Small Craft Utilization
(Percent of Available Training Time)

School	Total Deck Cadets	8-Hour, Single Day Trips Equivalency Factor: 3 to 1	8-Hour, Single Day Trips Equivalency Factor: 4 to 1	50 Day, 50% Overnight Equivalency Factor: 3 to 1	50 Day, 50% Overnight Equivalency Factor: 4 to 1
Maine	232	58%	4~~3~~%4	48	36%
Massachusetts	330	8~~8~~%2	62%	69	52%
New York	408	102%	76%	85	64%
California	236	59%	44%	49%	37%
Texas	218	5~~5~~%4	41%	45	34%

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As shown in Table 4, there are 45 months available in 4 academic years, or 1,350 days based upon 30 days per month. Of these days, 960, or 71 percent, are available for small craft training. Based upon the same availability rate, over one full year of 365 days, 259 days (71 percent) would be available annually for small craft training. Applying the utilization rates from Table 6 to the 259 days available for training in any given 12 month period, the average annual number of days required for small craft training per State maritime academy can be determined. These are presented in Table 7 at both 3 to 1 and 4 to 1 equivalencies under both training craft utilization scenarios.

Table 7

Average Annual Number of Days of Small
Craft Operation Required

School	Total Deck Cadets	8-Hour, Single Day Trips Equivalency Factor: 3 to 1	8-Hour, Single Day Trips Equivalency Factor: 4 to 1	50% Day, 50% Overnight Equivalency Factor: 3 to 1	50% Day, 50% Overnight Equivalency Factor: 4 to 1
Maine	232	150	114	121	93
Massachusetts	330	212	161	179	135
New York	408	264	197	220	166
California	236	153	114	127	96
Texas	218	140	106	117	88

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VI. A. Costs of Proposal

1. Federal

- Federal costs for this sea training proposal are figured in two parts: costs related to the consolidation of training ships, and costs related to construction of one small training craft for each of the five State academies. Under the proposal, construction of the small training craft will be funded in FY 1984, and the craft will be made available to the academies for operation beginning in FY 1986. The plan for utilization of two training vessels will be put into operation in FY 1984. Total Federal Costs are presented in Table 13.

Cost escalation factors have been applied consistent with the economic assumptions published by the Office of Management and Budget in the FY 1983 budget. Three cost escalation factors are used in the proposal for purposes of determining full costs for all cost elements over the period covered by the proposal. Crew costs are escalated at the published rates for "Wages and salaries." All other cost elements, except ship maintenance and repair, are escalated at the published rates for the "GNP deflator." There is strong evidence that the inflation rate for ship maintenance and repair in the United States approximated 20 percent from 1979 to 1980, substantially above the 9.0 percent published rate for the GNP deflator. The higher rate is used as a base figure for 1980 but is adjusted for the projected rate of change in the GNP deflator. The economic assumptions are published for calendar years; however, they are applied in the proposal for the corresponding fiscal years. The published economic assumptions only cover the period through 1987, and the 1987 rates are used for 1988. All cost estimates for training ships for the proposal were developed in FY 1981 dollars and escalated to the 1984-88 figures. Cost estimates for the small training craft were developed in FY 1982 dollars and escalated to derive the 1986--1988 operating cost estimates.

The escalation factors used in the study are shown in Table 8.

Table 8
Escalation Factors
(Percent change, year over year)

	Wages and salaries	GNP deflator	Ship maintenance and repair
1982	8.23	7.9	18.44
1983	8.85	6.0	15.56
1984	8.01	5.0	13.33
1985	9.43	4.7	12.00
1986	9.25	4.6	10.89
1987	8.95	4.5	10.89
1988	8.95	4.5	10.89

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a. Federal Cost Estimates for the Consolidation of Training Ships

(1) Expenses for maintenance of ships as stationary training platforms:

The total Federal costs for laying-up the T.S. STATE OF MAINE and T.S. BAY STATE in the James River National Defense Reserve Fleet (JRRF); providing the Maine, Massachusetts, and New York schools with Ready Reserve Fleet vessels for training platforms; maintaining the T.S. TEXAS CLIPPER for dormitory and training purposes; and maintaining the T.S. EMPIRE STATE while idled, differ considerably between first-year costs and subsequent-year costs. Under this plan, the T.S. STATE OF MAINE and T.S. BAY STATE will be steamed to Norfolk, Virginia, prior to being towed to the JRRF for lay-up. At Norfolk, one of the ships will be deactivated to the level of other National Defense Reserve Fleet vessels so it will be available as a replacement shcoolship should the T.S. EMPIRE STATE or T.S. GOLDEN BEAR become unavailable for training cruises. The other ship will only be partially deactivated and placed in lay-up at a reduced level of preservation in order to provide spare parts for its sister ships. For purposes of the study, cost calculations are based on full deactivation of the T.S. STATE OF MAINE and partial deactivation of the T.S. BAY STATE. Other first-year costs under this plan are for towing RRF ships from the JRRF to Castine, Maine, to Buzzards Bay, Massachusetts, and to Fort Schuyler, New York; annual maintenance and repair costs of the T.S. TEXAS CLIPPER; and shoreside service costs for the T.S. EMPIRE STATE, including costs of air, electricity, water, telephones, and guard service, for the 10 weeks the ship is idle at Fort Schuyler. There are no incremental maintenance and repair costs for the RRF ships because those expenses will be covered by the Maritime Administration regardless of whether they are kept at the State marine schools or at the National Defense Reserve Fleet site. The only recurring costs in subsequent years of the proposal are for maintenance under long-term lay-up of the T.S. STATE OF MAINE and the T.S. BAY STATE at the JRRF, annual M&R of the T.S. TEXAS CLIPPER, and shore-side service costs for the idled T.S. EMPIRE STATE. The Federal costs involved are presented in Tables 9 and 10 showing first-year costs and subsequent-year costs under this option.

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Table 9

First-Year Costs Under RRF Training Platform Plan

Action	Cost
- Steam T.S. STATE OF MAINE to Norfolk from Castine 1/	$ 47,000
- Steam T.S. BAY STATE to Norfolk from Buzzards Bay 1/	32,000
- Deactivate T.S. STATE OF MAINE	500,000
- Partially deactivate T.S. BAY STATE	200,000
Tow and moor T.S. STATE OF MAINE in JRRF	70,000
- Tow and moor T.S. BAY STATE in JRRF	20,000
- Tow RRF ship from JRRF to Castine 2/	110,000
- Tow RRF ship from JRRF to Buzzards Bay 2/	82,000
- Tow RRF ship from JRRF to Fort Schuyler 2/	72,000
- Shoreside service costs and guard service for idled T.S. EMPIRE STATE 3/	47,200
- Annual M&R of T.S. TEXAS CLIPPER	110,000
TOTAL	$1,240,200

1/Assumes vessel sailed by 28-man crew supplied by the academy, and includes air fare back to the academy and subsistence for one-day layover.

2/Includes break-out, preparation, and crew.

3/Ten-week cost of air, electricity, water, telephone, guard service, etc.

Table 10

Subsequent-Year Costs Under RRF Training Platform Plan

Action	Cost
- Long-term lay-up of T.S. STATE OF MAINE in JRRF 1/	$ 25,000
- Long-term lay-up of T.S. BAY STATE in JRRF 1/	12,000
- Shoreside service costs and guard service for idled T.S. EMPIRE STATE 2/	47,200
- Annual M&R of T.S. TEXAS CLIPPER	75,000
TOTAL	$159,200

1/Annual cost for long-term lay-up, including dehumidification and cathodic hull protection.

2/Ten-week cost of air, electricity, water, telephone, guard service, etc.

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(2) Hiring of Nucleus Shipkeeping Crews

Table 11 summarizes the costs associated with maintaining nucleus shipkeeping crews aboard the T.S. EMPIRE STATE and the T.S. GOLDEN BEAR under the two-schoolship alternative. The estimates are based on a contracted operation at union wage scales. It may be possible to contract for crewing with the State schools and, thereby, gain the use of individuals already familiar with operation of the schoolships and at potentially lower cost.

The scenario used for the nucleus shipkeeping crew of the T.S. EMPIRE STATE is that the seven unlicensed personnel (Bosun, Storekeeper, two electricians, and three general maintenance men) will work during the 33 weeks while on cruises and for six of the 10 weeks that the vessel is idle. The other four weeks of vessel idle time and the nine weeks while the vessel is in shipyard for M&R will be used for vacations for the unlicensed crew members. For the T.S. GOLDEN BEAR, the unlicensed crew members will work during the 22 weeks connected with cruises and for 11 of the 21 weeks of vessel idle time, with 10 weeks of idle time and nine weeks of M&R time available for vacations. The contracts for both schoolships will provide for officers (Master, Chief Mate, Chief Engineer, and 1st Assistant Engineer) to be available for work 365 days a year.

The contracting costs presented in Table 11 include two items additional to wage-related costs: per diem for food for the entire nucleus shipkeeping crew while on cruise and preparing the ship before and after each cruise, and per diem for food and lodging for the four officers while in the shipyard for maintenance and repair; and a coordinator's fee or contract overhead cost.

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Table 11

Annual Nucleus Shipkeeping Crew Costs

Position	T.S. EMPIRE STATE	T.S. GOLDEN BEAR	Total
Master (deck)	$67,609 1/	$64,634 1/	$132,243
Chief Mate (deck)	36,700 1/	35,113 1/	71,813
Chief Engineer	60,243 1/	58,738 1/	118,981
1st Assistant Engineer	36,700 1/	35,113 1/	71,813
Bosun	14,800	14,438	29,238
Storekeeper	11,629	11,738	23,367
Chief Electrician	15,759	12,749	28,508
Assistant Electrician	13,308	12,008	25,316
General Maintenance men	44,191	32,586	76,777
Sub-Total, Base Wages	$300,939	$277,117	$578,056
Fringes	349,981	397,861	747,842
Overtime	39,392	26,001	65,393
Total	$690,312	$700,979	$1,391,291
Per Diem (Food/lodging)			83,076 2/
Contractor Profit and Overhead			147,437
TOTAL ANNUAL COST			$1,621,804

1/ Includes non-watch pay.

2/ Based on $12 per day for all crew members while on cruise and onloading and offloading cadets, and $75 per day for the four officers while in shipyard for M&R.

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(3) Fuel:

Under the two-schoolship alternative, the Federal Government will reduce fuel expenses by operating the T.S. EMPIRE STATE using Bunker C fuel rather than the Special 4 fuel currently being used by the East coast schools. Bunker C fuel is currently used in the operation of the T.S. GOLDEN BEAR. For purposes of computing fuel, estimated costs are based on nine-week cruises broken down into 47 days at sea and 16 days in port en route with all officers, crew, and cadets aboard. For the T.S. EMPIRE STATE, based upon average consumption rates of 240 barrels per day at sea and 75 barrels per day in port under hotel-load, the total fuel consumption for one cruise is 12,480 barrels, or 37,440 barrels annually for three cruises. For the T.S. GOLDEN BEAR, based upon average consumption rates of 180 barrels per day at sea and 85 barrels per day in port under hotel-load, the total fuel consumption for one cruise is 9,820 barrels, or 19,640 barrels annually for two cruises.

A ten percent fuel reserve has been added due to the volatility of recent fuel costs. This reserve is a contingency against price increases above the GNP deflator used for the proposal and against errors in the estimation of fuel consumption pending completion of a detailed analysis of individual consumption rates of the two schoolships under different training conditions.

Including the contingency factor, the total fuel consumption for the T.S. EMPIRE STATE is estimated at 41,184 barrels of Bunker C fuel for three cruises, and that of the T.S. GOLDEN BEAR at 21,604 barrels for two cruises. At an East Coast April 1981 cost per barrel for Bunker C of $30.50, and a comparable West Coast cost of $27.58, the total annual fuel cost for five cruises would be $1,851,950. Although by April 1982, Bunker C fuel costs had decreased, the higher cost is retained as being more representative of what fuel costs will be once the current world oversupply of oil disappears.

(4) Transportation of Supplementary Crews and Texas Cadets:

Transportation of supplementary crews will include six separate one-way trips—four on the East Coast and two between the Gulf and West Coasts. The training ship T.S. EMPIRE STATE will be sailed from the New York Maritime College to the two other academies with assistance of crews from the respective academies. Transportation will be provided for a supplementary crew of 50 people from Massachusetts to New York to pick up the ship and then from New York back to Massachusetts upon returning the ship. Likewise, transportation will be provided for a supplementary crew of 50 people from Maine to New York and back to Maine.

Projected crew sizes are based on the number of officers/crew required for 1980/81 cruises, reduced to 50 because the vessel will be moved without cadets aboard. With cadets aboard, there were 70 officers/crew manning the T.S. BAY STATE and 60 officers/crew manning the T.S. STATE OF MAINE on the 1980-81 cruises.

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The two trips between the Gulf and West coasts will require that a 40-man crew, as well as 210 cadets, be flown from Texas to California and back to Texas.

Costs for transporting supplementary crews to and from the East Coast schools, as well as both crew and cadets to and from the Texas school, will involve airfare for each trip and other travel expenses (e.g., taxis, buses, or other transportation between airports and schools) estimated at 10 percent of air transportation costs.

The total estimated costs for transportation are given in Table 12.

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Table 12

Cost of Transporting Supplementary Crews and Texas Cadets

Trips	Air Fare	Other Travel Expenses 1/	Total Cost
East Coast (50 passengers each trip):			
Massachusetts to N.Y.	$2,400	$240	$2,640
N.Y. to Massachusetts	2,400	240	2,640
Maine to N.Y.	4 250	425	4.675
N.Y. to Maine	4,250	425	4,675
Subtotal	$13,300	$1,330	$14,630
Gulf/West Coasts (250 passengers each trip) 2/:			
Texas to California	$66,750	$6,675	$73,425
California to Texas	66,750	6,675	73,425
Subtotal	$133,500	$13,350	$146,850
Total Cost	$146,800	$14,680	$161,480

1/ Transportation between State Marine schools and airports.
2/ Includes 40 officers/crew and 210 cadets at charter flight rates.

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(5) Maintenance and Repair:

Essentially the same base maintenance and repair cost considerations are projected for the T.S. EMPIRE STATE and T.S. GOLDEN BEAR under the two-schoolship alternative as are projected for the same two vessels if five schoolships were retained. Because these two vessels will be used for more than one annual cruise, certain M&R cost elements which would vary with the level of cruise activity were reestimated over the six-year period of the proposal and are included in the total cost estimates of M&R for the two schoolships. In 1983 dollars, the M&R cost of the T.S. EMPIRE STATE during FY 1983-FY 1988 is estimated at about $10.6 million, while that of the T.S. GOLDEN BEAR is about $7.2 million over the same period. The total estimated M&R cost for the two-schoolships alternative is approimately $17.8 million in 1983 dollars.

(6) Vessel Positioning:

Under the two-schoolship alternative, the Federal Government will pay fuel, tug assistance, and pilotage costs of moving the T.S. EMPIRE STATE between Fort Schuyler, New York, and both Buzzards Bay, Massachusetts, and Castine, Maine. The annual costs, in 1981 dollars, are estimated at $11,000 between New York and Massachusetts and $20,000 between New York and Maine, for an annual total of $31,000.

(7) Consumables and Expendables:

Consumable stores are articles which, by the nature of their composition or intended use, (1) lose all value upon initial usage and are considered consumed when used (e.g., paint, packing, soap), (2) would be practically worthless for resale or transfer immediately after their initial use (e.g., paint brushes, mops, brooms, rope), or (3) lose their individual identity when used in a larger piece of equipment or when used in conjunction with repairs or an installation (e.g., pipe fittings, valves, fire brick, wire, fuses, sockets and plugs).

Expendable equipment refers to all items of a portable nature (sometimes secured because of weight or size) which are not a part of the ship itself and are required in the normal day-to-day maintenance and operation. Expendable equipment, due to its portable nature, lends itself to being misplaced, pilfered, or otherwise subjected to daily or frequent use, necessitating repair or replacement more often than permanent equipment (e.g., navigating instruments, cargo gear, tools, office machines, linens and bedding, galley gear, crockery, and glassware).

Consumables and expendables are also referred to as stores, supplies, and equipment (S.S. & E.) and do not include spare parts, which are included as costs under maintenance and repair. S.S. & E. costs have been estimated in two categories: start-up S.S. & E. costs and

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annual S.S. & E. costs. Start-up S.S. & E. costs are estimated at $50,000 for the T.S. EMPIRE STATE and $40,000 for the T.S. GOLDEN BEAR, while annual S.S. & E. costs are about $110,000 for the T.S. EMPIRE STATE and $45,000 for the T.S. GOLDEN BEAR. Therefore, first year costs for consumables and expendables are estimated at $245,000, and subsequent year costs are estimated at $155,000 in 1981 dollars.

(8) Repositioning the Maine Academy Ship:

An additional Federal cost of approximately $8,000 will be incurred in moving the [illegible] ship assigned to the Maine Academy while the T.S. EMPIRE STATE is embarking and disembarking for the Maine academy cruise. This estimate is based on a cost of $2,000 for shifting the vessel either away from or back to its berth on the two occasions that the ship must be moved. It assumes that the Maine academy provides whatever crew is necessary for moving the vessel.

b. Federal Cost Estimates for the Construction of Small Training Craft:

Assuming that all five small training craft are built in the same shipyard, the total Federal cost estimate for construction of small training craft will be approximately $4 million in 1982 dollars per vessel, or a total of $20 million. This cost includes engineering, construction, and about $.5 million for electronics. Since construction costs for all five craft constructed under this proposal will be obligated in FY 1984, these costs have been escalated to 1984 dollars in the summary of Federal costs in Table 13.

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Table 13
Federally-Funded Costs Under the Two-Schoolship and Five Small Training Craft Proposal
FY 1984-FY 1988

Cost Element	1984	1985	1986	1987	1988	FIVE YEAR TOTAL
Two-Schoolships						
Maintenance and repair of 2 ships used for training cruises	$4,844,631	$3,791,133	$5,524,244	$4,661,801	$6,221,091	$25,042,900
Maintenance of ships as stationary training platforms	1,489,390	200,174	209,382	218,804	228,650	2,346,400
Nucleus shipkeeping crews	2,063,661	2,258,264	2,467,153	2,687,963	2,928,536	12,405,577
Supplementary crew & cadet transportation	193,926	203,041	212,381	221,938	231,925	1,063,211
Fuel	2,224,056	2,328,587	2,435,702	2,545,309	2,659,848	12,193,502
Vessel positioning - movement of East coast ship between schools	37,229	38,979	40,772	42,607	44,524	204,111
Consumables and expendables	294,227	194,893	203,858	213,032	222,618	1,128,628
Repositioning the Maine Academy ship to berth the cruise ship	9,607	10,059	10,522	10,995	11,490	52,673
TOTAL: 2 Schoolships	$11,156,727	$ 9,025,130	$11,104,014	$10,602,449	$12,548,682	$54,437,002
Five Small Training Craft						
Construction	$22,260,000	$	$	$	$	$22,260,000
	$22,260,000					$22,260,000
Total Federal Cost	$33,416,727	$ 9,025,130	$11,104,014	$10,602,447	$12,548,682	$76,6[illegible]7,002

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(2) State

State costs under this sea training proposal will come in two areas: operating costs relative to the two schoolships, and operating costs for the small training craft.

Operating costs under the two schoolship plan will include food costs for cadets and supplemental crews while on cruise, pay and incidental costs of the supplemental crews provided to support the nucleus crew, and costs of training materials provided by the academies. Since the academies currently are not required to provide information on these costs to the Federal government, no attempt has been made to estimate what these costs would be under the proposal.

Once the small training craft have been constructed by the Federal government and signed over to the States for use at the State academies, all operating costs will be the responsibility of the State academies. These costs will include crew costs, consumables and expendables, training equipment, and operating costs (maintenance and repair, insurance, and fuel). Since the costs of crews, consumables and expendables, and training equipment will vary from academy to academy according to the method selected to meet the need, and according to the ultimate scheduling of use of the small craft, no attempt has been made to estimate these costs for this proposal.

An estimate has been made of the operating costs for the small training craft over the period under the time limits of this proposal during which they will be operated, FY's 1986-1988. These costs are based on the following estimated operating costs in 1982 dollars over a 24-hour day:

Cost	Daily Cost (24 hours)
Fuel	$ 1,710
Lube Oil	45
Stores and Effects	50
M&R (reflects dry dock and total M&R mostly crew performed)	120
Insurance	100
TOTAL	$ 2,025

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NOTES:

1. The operating expenses represent estimated costs of a tug/supply type vessel of similar horsepower, operating 24 hours/day.

2. Costs are in 1982 dollars, taken from a MARAD publication "Estimated Vessel Operating Expenses (1980)."

3. No crew costs are included.

4. No cadet or cadet related expenses are included. Thus, any costs unrelated to the operation of the vessel as a workboat have not been included, such as cadet messing, berthing, hygiene or training. As far as the latter, considerable expense will result from M&R on electronic navigation equipment, easily adding 25% to M&R costs.

Using these figures, operating costs were estimted for each State marine academy based upon the average annual days of required small craft utilization (presented in Table 7 in Section V of this proposal) under the scenario for 50 percent day use and 50 percent overnight use of the small craft. These operating costs are presented in Table 14 in 1982 dollars, and in Table 15 in escalated dollars for the FY 1986-FY 1988 period included in this proposal, at both 3 to 1 and 4 to 1 equivalency factors.

Table 14
Estimated Annual Operating Costs for Small Craft
(FY 1982 dollars)

	50% Day, 50% Overnight	
School	Equivalency Factor: 3 to 1	Equivalency Factor: 4 to 1
Maine	$ 151,200	$ 112,725
Massachusetts	218,025	164,025
New York	267,300	201,150
California	154,575	116,100
Texas	142,425	106,650

Table 15

Estimated Operating Costs for Small Craft, FY 1986-FY 1988

School	FY 1986 Equivalency Factor: 3 to 1	FY 1986 Equivalency Factor: 4 to 1	FY 1987 Equivalency Factor: 3 to 1	FY 1987 Equivalency Factor: 4 to 1	FY 1988 Equivalency Factor: 3 to 1	FY 1988 Equivalency Factor: 4 to 1	Three- Year Total Equivalency Factor: 3 to 1	Three- Year Total Equivalency Factor: 4 to 1
Maine	$184,300	$137,402	$192,593	$143,585	$201,260	$150,046	$ 578,153	$431,033
Massachusetts	$265,753	$199,931	$277,712	$208,928	$290,209	$218,330	$ 833,674	$627,189
New York	$325,816	$245,184	$340,478	$256,217	$355,800	$267,747	$1,022,094	$769,148
California	$188,413	$141,515	$196,892	$147,883	$205,752	$154,538	$ 591,057	$443,936
Texas	$173,603	$130,206	$181,415	$136,065	$189,579	$142,188	$ 544,597	$408,459

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VI. B. Comparison to Current Procedure

Since the extra six months of at-sea training necessitated by the new IMCO requirements, and the use of small training craft to meet those requirements, are new procedures, no cost comparison can be made with current procedures. The costs are new costs. Some of the additional cost burden placed upon the State academies for operation of the small training craft will be offset by the Federal government picking up some of the operational costs of the larger training vessels under the two schoolship proposal, such as fuel, and consumables and expendables.

In order to compare the Federal costs of two schoolship operation during FY 1984-1988 with the costs of continuing the use of the current five schoolships during the same period, two areas were examined. These areas were maintenance and repair (M&R), which the Federal government currently pays, and fuel costs, which the Federal government is authorized to cover under the Maritime Education and Training Act of 1980.

Table 16 shows the estimated M&R and fuel costs for the five schoolships over the five years of this new sea training proposal, and compares them with Federal costs under the two training ship proposal.

The estimated cost of M&R for the existing five schoolships is based on estimated M&R costs of $9.4 million in FY 1982, expressed as 1983 dollars because this figure is higher than any other year in the history of the schoolship M&R program, including estimates for FY 1983. However, the figure is used in order to give a maximum cost figure, and because the history of the schoolship M&R program indicates that costs have risen dramatically in recent years. Considering the age and condition of the existing ships, it is estimated that continued funding at approximately the 1982 level will be required to maintain these ships in reasonable operating condition through 1988. The annual estimates have been adjusted to reflect non-recurring costs associated with dry docking and other unique requirements for U.S. Coast Guard and American Bureau of Shipping inspections.

Fuel cost estimates are based on annual training cruise consumption rates of 12,500 barrels of Special 4 fuel per cruise for the three sister ships, the T.S. BAY STATE, T.S. EMPIRE STATE and T.S. STATE OF MAINE, and annual consumption rates of 10,000 barrels of Bunker C fuel per training cruise for the T.S. GOLDEN BEAR and the T.S. TEXAS CLIPPER. Based on April 1981 fuel prices of $35.39 per barrel of Special 4, $27.58 per barrel for West coast Bunker C and $26.96 per barrel for Gulf coast Bunker C, the 57,500 barrels of fuel under the five-schoolship alternative will cost $1,872,525 in 1981 dollars.

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A comparison of the savings to be made in Federal costs from operating two training vessels rather than five, versus the added Federal costs for constructing five small training craft, shows a net gain to the Federal government over the FY 1984-FY 1988 period. Costs of approximately $22.3 million for constructing the small craft are more than balanced by about $26.9 million in savings accomplished through going to a two schoolship program.

Table 16

Comparison of Federally-Funded Costs Under the Five-Schoolship and Two-Schoolship Alternatives, FY 1984-FY 1988

	1984	1985	1986	1987	1988	FIVE YEAR TOTAL
Five Schoolship Alternative						
Maintenance and Repair	$11,188,000	$11,980,000	$13,994,000	$14,731,000	$17,086,000	$68,979,000
Fuel	2,248,765	2,354,457	2,462,762	2,573,586	2,689,397	12,328,967
Total: 5 Schoolships	$13,436,765	$14,334,457	$16,456,762	$17,304,586	$19,775,397	$81,307,967
Two Schoolship Alternative	$11,156,727	$ 9,025,130	$11,104,014	$10,602,449	$12,548,682	$54,437,002
Difference:						
Cost Reduction under the Two-Schoolship Alternative	$ 2,280,038	$ 5,309,327	$ 5,352,748	$ 6,702,137	$ 7,226,715	$26,870,965

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STATE MARITIME SCHOOLS TRAINING SHIP
REPLACEMENT ALTERNATIVES STUDY

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Maritime Administration
February 1986

Table of Contents

Page No.

Tables....................iii

Executive Summary....................iv

I. Introduction....................I-1
  A. Purpose....................I-1
  B. Background....................I-2
  C. Scope and Approach....................I-6
  D. General Assumptions....................I-9

II. Replacement Ships....................II-1
  A. Construction of New Ships....................II-1
  B. Acquisition and Conversion of U.S.-Built Ships....................II-2
  C. Acquisition and Conversion of Foreign-Built Ships....................II-3
  D. Conversion of Inactive Ships in U.S. Navy Custody....................II-9
  E. Selection of Replacement Ship....................II-10

III. Training Ship Replacement Alternatives....................III-1
  A. Continued Use of Existing Training Ships....................III-2
  B. Operating Scenarios and Assumptions for the Five-Training Ship Alternatives Using Replacement Ships....................III-2
  C. Operating Scenarios and Assumptions for the Ship-Sharing (Two-Training Ship) Alternative....................III-3
    1. Operating Scenario....................III-3
    2. Assumptions Under the Two-Training Ship Alternative....................III-6

IV. Federally-Funded Costs of Training Ship Replacement Alternatives....................IV-1
  A. Continued Use of Existing Training Ships....................IV-1
  B. Five-Training Ship Alternative: All Conversions Contracted in FY 1987....................IV-1
  C. Five-Training Ship Alternative: Staggered Conversions Starting in FY 1987....................IV-3
  D. Ship-Sharing (Two-Training Ship) Alternative....................IV-5
    1. Expenses for Maintenance of Ships as Stationary Training Platforms....................IV-5
    2. Hiring of Nucleus Shipkeeping Crews....................IV-8
    3. Transportation of Supplementary Crews and Texas Cadets....................IV-9

Page No.

4. Maintenance and Repair........................IV-12
5. Vessel Positioning............................IV-13
6. Consumables and Expendables...................IV-13
7. Repositioning the Maine and New York Academy Ships........................IV-14

V. Observations on Training Ship Replacement Alternatives..V-1

Tables

Page No.

Table 1 State Marine School Training Ship M&R and Replacement Costs, FY 1977-1986....................I-5
Table 2 Projected Cruise Complements, FY 1986-FY 1995....................................I-11
Table 3 Escalation Factors..................................I-12
Table 4 U.S.-Built Vessels: Age, Location, and Condition...II-4
Table 5 Training Ship Conversion Design Characteristics....................................II-6
Table 6 Inactive Vessels in U.S. Navy Custody.............II-11
Table 7 Replacement Training Ship Alternative Cost Estimate Comparison................................II-12
Table 8 Estimated Maintenance and Repair, FY 1986-FY 1995: Existing Training Ships..................IV-2
Table 9 M&R Costs: Replacement Ships.......................IV-4
Table 10 First-Year Costs Under the RRF Training Platform Plan..IV-7
Table 11 Subsequent-Year Costs Under the RRF Training Platform Plan.............................IV-8
Table 12 Annual Nucleus Shipkeeping Crew Costs.............IV-10
Table 13 Cost of Transporting Supplementary Crews and Texas Cadets..................................IV-12
Table 14 Federally-Funded Costs of Training Ship Replacement Alternatives, FY 1986-FY 1995...........V-3

Executive Summary

This study responds to a Senate Committee on Commerce, Science and Transportation request for a study, plan, and time-phased budget for training ship replacement. The request was included in the Committee Report on the Maritime Appropriation Authorization bill for FY 1986 (S. 679).

All potential sources for replacement ships were considered, with four sources receiving major attention: construction of new vessels, acquisition and conversion of U.S.-built vessels, acquisition and conversion of foreign-built vessels, and conversion of inactive vessels in U.S. Navy custody. The lowest-cost alternative was found to be conversion of existing U.S.-built ships at an average replacement cost of $17.4 million per ship.

Using this replacement cost, the study examines four alternative approaches to the ship replacement issue:

1. continue use of existing training ships
2. maintain five training ships, replacing four of them in 1987
3. maintain five training ships, replacing four of them on a staggered, two-year cycle
4. adopt a ship sharing arrangement using two ships.

The study does not include a recommendation for a best alternative. Rather, the study is intended to serve as a decision guide. Once a decision on replacement is reached, a detailed plan will have to be prepared for implementation. The study does provide cost estimates which could be used as a preliminary budget; nowever, more detailed estimates would be developed in the process of preparing and implementing the detailed replacement plan.

A summary table of the Federal costs associated with the four alternatives for the 10 year period of the study is presented below.

Federal Cost Comparison Summary
(Dollars in Thousands)

Fiscal Year	Alternative 1	Alternative 2	Alternative 3	Alternative 4
1986	$ 8,000	$ 8,000	$ 8,000	$ 8,000
1987	8,651	78,251	26,051	25,839
1988	10,500	10,500	10,500	9,244
1989	12,500	5,470	28,812	10,442
1990	12,500	5,595	10,149	10,454
1991	13,750	5,992	29,549	11,149
1992	13,750	6,174	9,962	11,469
1993	15,000	6,649	29,956	12,188
1994	15,000	6,903	9,552	12,557
1995	16,250	7,367	7,367	13,304
Ten-Year Total	$125,901	$140,901	$169,898	$124,646

Alternative 4 - ship sharing - is the most attractive alternative, cost-wise, and would provide a newer ship to replace four existing ships in the shared arrangement. The cost of this replacement would have to be borne by an increased funding requirement in 1987, but out-year savings on maintenance and repair would offset the ship replacement cost as well as offset additional costs inherent in the ship-sharing arrangement, such as employment of Federally-funded shipkeeping crews. With adequate levels of maintenance, Alternative 1 - continued use of existing training ships - is also a viable alternative and would be the second lowest cost option over the next 10 years.

Program costs increase as the delay in replacing ships lengthens. Alternative 3 - replacing four training ships on a staggered, two-year cycle - would be considerably more expensive over 10 years than would Alternative 2 - replacing four ships in 1987, the earliest possible year. However, Alternative 2 would require a massive Federal investment in 1987 for replacement ship contracts.

Except in passing, the study does not address the current issue of the $8.5 million appropriated in 1984 for the acquisition of a replacement training ship for New York. The intent is to examine the broader issue of replacing all four of the older training ships while action on the specific issue of replacing the New York ship is still in the formative stages. If the acquisition, activation, and conversion of a new training ship for New York were accomplished for $17.4 million, the amount projected in this study for a replacement ship, the effect on Alternative 1 - continued use of existing training ships - would be to lower the 10-year cost of that alternative by approximately $625,000. Savings in maintenance and repair costs projected for the EMPIRE STATE would more than offset the costs of replacement and maintenance for the new training ship. The same cost reduction benefit would hold true if the STATE OF MAINE were replaced in the near term. However, the projected maintenance and repair costs for the present California and Texas training ships are substantially less than for the New York and Maine ships. Replacement of the California and Texas ships would not generate sufficient savings to offset replacement and maintenance costs for new training ships. As shown in Alternative 2, replacing four ships in 1987 would produce a net higher 10-year cost than would continued use of existing training ships.

I. INTRODUCTION

A. Purpose

The Senate Commerce, Science and Transportation Committee report (Senate Report 99-64) on the Maritime Appropriation Authorization Act for Fiscal Year 1986 (S. 679) requests that the Maritime Administration (MARAD) undertake a study and develop a plan for replacing training ships used by the maritime academies of Maine, New York, Texas, and California. The Committee report requires that the study and plan address all feasible options and cover both acquisition and conversion costs. The study is to consider the possibility of new building, as well as acquisition and conversion of either U.S.-built or foreign-built vessels, emphasizing the acquisition of modern vessels with alternating current and diesel propulsion. Options for sharing ships among schools are to be explored. The plan is to include a time-phased budget to cover the costs indicated by the study.

In administering the program of Federal assistance to State maritime academies, MARAD maintains a continuous watch on training ship maintenance and replacement requirements. In recent years, a number of staff analyses have been completed which have examined alternative approaches to meeting State school requirements for at-sea training. In addition, MARAD has produced a long series of engineering design studies investigating the suitability of various ships for use as training ships.

This current study has been prepared specifically in response to the Senate Committee's request. It is intended to review viable training ship replacement alternatives and provide a basis for developing the requested plan and budget.

B. Background

In order to meet U.S. Coast Guard regulations for licensing of officers, each State Marine School (SMS) must provide a required amount of practical at-sea training experience to its cadets as part of the school's curriculum. Under the Merchant Marine Act of 1936, as amended by the Maritime Education and Training Act of 1980 (P.L. 96-453), MARAD has made available and maintains a suitable vessel for each of the five "salt water" State maritime academies for use as a training ship. The five States with training ships assigned to their respective academies are Maine, Massachusetts, New York, California, and Texas. Although MARAD is not obligated by law to provide training ships or to provide a single ship to each academy, the practice has been to provide a separate training ship to each of the five academies for its exclusive use.

Training ships have been replaced at irregular intervals as serviceability dictated. However, it has become increasingly difficult and expensive to find suitable replacements. There are no ready made training ships. A replacement ship, no matter what its source, invariably must undergo major modification and renovation to accommodate an academy's cruise complement and to meet minimum requirements for use as a training platform. Most existing ships currently in operation would be too big for efficient and economical use as training ships or too expensive to convert, even if they were available at a reasonable price.

Beyond the problems associated with obtaining a suitable replacement ship, there is the significant question of when or how frequently training ships should be replaced. Obviously, when a ship is no longer materially serviceable, it must be replaced. None of the five existing training ships is at this stage.

The Federal training ship program has traditionally reflected the view that college level educational programs focus more on theory and concepts than on practical implementation of advanced technology. The State maritime academies, by virtue of their objective, must prepare cadets to sit for the U.S. Coast Guard licensing examinations and to assume entry-level positions as third mate or third assistant engineer aboard ship. In doing so, it is essential that the cadets obtain a firm foundation in science and engineering principles, knowledge and experience in practical shipboard skills such as seamanship and navigation, hands-on experience in the operation and repair of fundamental shipboard machinery such as motors and pumps, and at least an awareness of technological advances in the field. However, few undergraduate science and engineering programs provide opportunities to use state-of-the art equipment except in significantly modified form for laboratory experimentation. In virtually all technical fields, the true learning experience begins at graduation; and the real purpose of the educational institution is to equip the student with tools for inquiry and the theoretical foundation to grasp advanced applications. Within this context, the timing for training ship replacement depends much more on the material condition of the ship than on the state or technology in the industry.

The current fleet of training ships consists of vessels that range in age from approximately 46 years (California's GOLDEN BEAR) to 22 years (Massachusetts' PATRIOT STATE). Texas' TEXAS CLIPPER is 42 years old and Maine's STATE OF MAINE and New York's EMPIRE STATE are 34 years old. As the ships have aged, maintenance requirements have increased. However, ship maintenance and repair (M&R), Federally funded through MARAD, largely has been limited to work necessary for meeting operational and safety requirements dictated primarily by the U.S. Coast Guard and American Bureau of Shipping (ABS). Since 1977, the basic M&R costs for the training ships of the five academies have increased from about $2.1 million to $8.0 million. Inflation and unanticipated expenses for mandatory repairs have been significant factors in the cost increase. The M&R costs and the costs associated with activation, conversion, and repair of replacement ships for the 10-year period FY 1977-FY 1986 are displayed in Table 1 by training ship.

Table 1

State Marine School Training Ship M&R and Replacement Costs
FY 1977-1986
($000's)

	1977	1978	1979	1980	1981	1982	1983	1984	1985*	1986**
EMPIRE STATE (New York)	$ 264	$ 343	$ 500	$ 852	$ 408	$2,792	$2,022	$ 4.058	$ 1,825	$2,394
BAY STATE/ PATRIOT STATE (Massachusetts)	640	928	60 1/	4,343 2/	4,392 3/	2,261 4/	536	9,374 5/	9,459 5/	2,008 5/
STATE OF MAINE (Maine)	511	395	1,040	1,684	847	2,098	1,719	2 479	930	2,189
GOLDEN BEAR (California)	340	374	385	443	449	964	1,114	978	1,318	1,109
TEXAS CLIPPER (Texas)	365	330	985	502	495	1,195	910	1,494	1,045	1,188
TOTAL	$2,120	$2,370	$2,370	$7,824	$6,591	$9,310	$6,301	$18.383	$14,577	$8,888 6/

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* Estimated, subject to final closeout of contracts.

** Estimated, subject to reprogramming between ships or other changes upon receipt of worklists.

1/ In 1979, the Massachusetts training ship, T.S. BAY STATE (ex. S.S. HENRY GIBBONS), was withdrawn from service as a training ship. The New York State training ship, T.S. EMPIRE STATE, was loaned to the Massachusetts Maritime Academy for training cruise in 1979.

2/ The T.S. BAY STATE (formerly the USNS GEIGER) was activated in 1980. M&R costs include approximately $4.0 million in activation costs.

3/ Includes $363,000 for activation costs additional to those covered in 1980.

4/ Includes funding to survey and initiate repair of fire damage incurred in December 1981. The ship was ultimately replaced, and the fire damage repairs were not completed.

5/ FY 1984 and FY 1985 total of $18.8 million is entirely associated with purchase of the SANTA MERCEDES, and its activation, repair, and conversion to a training ship, the PATRIOT STATE. FY 1986 estimate includes $888,000 for further Congressionally mandated modifications. Navy funded expenses of approximately $1.3 million for modification of the PATRIOT STATE to Ready Reserve Force (RRF) status are not included in these estimates.

6/ FY 1986 total includes $8.0 million for maintenance and repair of five training ships and $888,000 for further Congressionally mandated modifications of the PATRIOT STATE.

C. Scope and Approach

Training ship replacement is not a new issue. Within the past 14 years, the training ships used by the New York and Maine academies have both been replaced, and the Massachusetts training ship has been replaced twice. In each instance, the advantages and disadvantages of various replacement alternatives have been carefully assessed. Invariably, the final replacement decision has hinged on cost considerations and ships available at the time.

Since 1975, MARAD has prepared 21 engineering design studies to examine the suitability and cost of constructing new ships or converting existing ships of specific designs to training ships. Some of these studies have been developed in response to specific replacement requirements when an existing training ship was no longer operational. Other studies were prepared in MARAD's ongoing effort to find a longer-term solution to the training ship replacement problem.

Rather than repeat the work already completed, the current study draws heavily on this extensive library of engineering design studies. Nevertheless, virtually all categories of U.S.- and foreign-built ships are examined, and at least one option involving new construction is reviewed, in response to the Senate Committee on Science, Commerce and Transportation directive. Following the selection of specific ship designs, the study focuses on alternative approaches to ship replacement in which alternatives to straight one-for-one replacement are examined. Ultimately, the final criterion used in developing each approach is minimum Federal cost. The alternatives addressed, however, do provide a range of costs and introduce other factors into the replacement equation.

Perhaps the most obvious criterion not evident in the study relates to the quality of training. While all ship designs considered in the study would offer at least a minimum facility for deck and engine officer training, there are no existing standards to determine how a training ship should be configured or equipped. Classroom materials and training equipment used aboard ship on training cruises are the responsibility of the State academies and reflect the capability and priority of the individual academies for meeting their specific academic needs. Considering the lack of uniformity among the current training ships, the academies have had to adjust to the training platforms available to them. The academies clearly have been successful in training officers using the existing training ships and their forerunners. Considering the differences between the five academies regarding individual state academic approaches and requirements, it is reasonable to assume that the academies will continue to operate in this mode.

The Senate Committee requirements for the study specifically emphasize the importance of obtaining modern vessels with alternating current electric power (AC) and diesel propulsion. These have been major, but not overriding, considerations in the review of existing ships available for conversion to training ships. Most of the ships examined are equipped with alternating current. Most are propelled by steam. The academies are training midshipmen for service in the existing as well as future U.S.-flaq merchant marine. The existing fleet is predominantly steam driven, and the need for steam power training will continue through the turn of the century. The academies have provided training in both steam and diesel propulsion since the 1950's through their assigned training ships, shoreside facilities, and other academic mediums. The justification for training in dual power systems is apparent and it is safe to assume that this training will be sustained and hopefully improved in the future. The assumption is based on the significant progress already made at the academies to date.

This study does not address the specific project associated with the FY 1984 supplemental appropriation of $8.5 million for acquisition and preconversion costs of a ship to replace the New York training ship. The process of acquiring a new ship has been initiated with the publishing in October 1985 of a "sources sought" notice in the Commerce Business Daily to assure that all interested parties have an equal opportunity to advise MARAD of potential ship candidates. Based upon procurement process experience and vessel inspection and survey requirements, it is anticipated that the earliest availability of a new training ship for New York would be the summer of 1987. This study is directed toward resolving the broader issue of replacing four schoolships, as directed by the Senate Committee, while actions on the specific New York replacement project are still in the preliminary stages.

The study does not address non-economic, political, or institutional factors which, in the final analysis, may determine whether the State marine school program is continued using the present five ships, only two ships, or some other alternative. Further review of legislation would be required to verify authority to implement several elements of the alternatives considered.

D. General Assumptions

Delivery of Replacement Ships

FY 1987 is the earliest year in which a contract can be awarded for either conversion of an existing ship or construction of a new ship. FY 1989 will be the first year of operation of a new or converted ship.

Inter-Governmental Maritime Organization (IMO) One-Year At-Sea Training Requirement

The IMO concluded an International Conference on Standards of Training and Certification of Seafarers in July 1978. That Conference produced an International Convention on Standards of

Training, Certification and Watchkeeping for Seafarers, which has been ratified by the necessary 25 countries, and requires one year minimum sea time for candidates for deck officer certification who are part of approved training programs. For purposes of this study, it is assumed that, upon U.S. ratification of the Convention, the added training requirement will be met by some method other than through a major increase in the use of training ships. Plans to accomplish this already have been approved jointly by MARAD and the Coast Guard for three of the five "salt water" State academies.

Ready Reserve Force (RRF) Vessel Availability

If a vessel currently in the RRF is selected as a training ship, it will be made available for conversion and use as a training ship while maintaining its designation as an RRF ship under conditions similar to the PATRIOT STATE.

Place of Conversion or New Construction

Conversion or new construction work will be reserved for domestic shipyards. Cost figures used in the study all reflect domestic prices of equipment and services.

Training Ship Cruise Complements

The annual number of State academy cadets to receive at-sea training on the training ships during FY 1986-FY 1995 will remain constant at present levels. Therefore, the cruise complements for each school for each year of the study will be as shown in Table 2.

Table 2

Projected Cruise Complements
FY 1986 - FY 1995

School	No. Students 1/	No. Crew	No. Faculty	Total
New York	578	105	21	704
Massachusetts	493	46	61	600
Maine	282	59	21	362
California	307	2[illegible]	[illegible]	[illegible]
Texas	177	43	5	225

1/ All present cruises include cadets from three academic classes, except Maine's, which only includes cadets from two classes. It is assumed that the one Maine class that currently sails on commercial vessels will continue to do so through 1995, and that the other schools will continue to sail all three of their academic classes on each training cruise through 1995.

Fuel and Other Operating Costs

Training ship fuel is considered an operating cost responsibility of the State maritime academies. Ship operating costs are a funding responsibility of the schools. Although the Federal Government has made payments to the schools for fuel oil for training cruises in some previous years, the responsibility remains with the State schools. Thus, fuel costs are not included as a Federal expense for this study.

Cost Escalation

Cost estimates for the study are in FY 1987 dollars escalated as necessary to FY 1988-FY 1995 projections. Cost escalation factors correspond to the economic assumptions published by the

Office of Management and Budget in the Fiscal Year 1987 Budget released in February 1986. Two cost escalation factors are used in the study for purposes of determining full costs for all cost elements over the period covered by the study. Crew-related costs are escalated at the published rate for "Wages and Salaries." All other cost elements are escalated at the published rates for "GNP Deflator." The economic assumptions are published for calendar years; however, they are applied in the study for the corresponding fiscal years. The published economic assumptions only cover the period through 1991, and the 1991 rates are used for 1992 through 1995.

The escalation factors used in the study are shown in Table 3.

Table 3

Escalation Factors
(Percent Change, Year Over Year)

	Wages and Salaries	GNP Deflator
1988	7.6	3.9
1989	7.0	3.4
1990	6.0	2.9
1991	5.8	2.3
1992	5.8	2.3
1993	5.8	2.3
1994	5.8	2.3
1995	5.8	2.3

II. REPLACEMENT SHIPS

Four potential sources of training ship replacement vessels were considered for this study: construction of new ships; acquisition and conversion of U.S.-built ships; acquisition and conversion of foreign-built ships; and acquisition and conversion of inactive ships in U.S. Navy custody. 1/ These four sources are examined below. Estimated costs of building or converting the ship types selected for inclusion in the study are summarized at the end of this section in Table 7.

A. Construction of New Ships

In 1978, MARAD completed a detailed preliminary ship design study, designated PD-211, for the construction of a new training ship. That design has been re-examined for this study. The PD-211 was designed from the keel up to be a training ship and would accommodate approximately 420 cadets and 74 crew and faculty. The original design featured both a main steam propulsion system and a main diesel propulsion system and included an operable cadet's navigation bridge along with the ship's navigation

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1/ Leasing of vessels for use as training ships also was considered but not included in the study because of the limited availability of suitable vessels and because of scheduling difficulties. The use of sea-shed type modules for training classrooms and dormitory facilities that could be transported on existing ships also was considered, but not included, because it was regarded as too experimental an approach.

bridge. However, the present study examined a modified PD-211 design, eliminating the steam propulsion system and using only diesel propulsion.

The PD-211 design indeed would provide an optimum training platform. It would have sufficient capacity to carry the projected cruise complements of the Maine, California, and Texas academies. The ship also could be used in a California and Texas ship-sharing arrangement but would not accommodate either the New York or Massachusetts cruise complements.

B. Acquisition and Conversion of U.S.-Built Ships

An examination was made of the characteristics of privately-owned U.S. freighters that might be viable training ship candidates. We are not aware of any U.S.-flag vessel that would be available and which would be substantially better equipped for conversion to a training ship than ship types that have been previously studied by MARAD. Since most of the vessels of the type previously studied are presently government-owned and maintained in the National Defense Reserve Fleet or the Ready Reserve Force, acquisition costs are not a factor if the previously studied conversions are used exclusively in the present study.

The MARAD series of training ship design studies carried out between 1975 and 1985 covered five designs relevant to the present study. These five designs - C4-S-57A, C3-S-38A, C3-S-37C (two different configurations), C1-M-122A, and C4-S-49A - were selected for inclusion in the study because of the existence of a number of vessels of each type in the Ready Reserve Force (RRF), the National Defense Reserve Fleet (NDRF), or in private ownership. Two configurations of one ship design are included in order to have vessels of a capacity approximating the training vessel cruise complements of the four academies addressed in the study.

Existing vessels in the five design categories are listed in Table 4 according to their delivery dates and ages, their current employment or reserve fleet location, and their material condition or present disposition plans.

The five training ship designs selected for inclusion in the study represent a variety of configurations and vessel sizes. Some of the main design characteristics are summarized in Table 5. This table includes the number of cadets and crew and faculty that could be carried according to the ship conversion design study completed for each ship type, and the State marine schools whose complements could be accommodated at that level of capacity. Massachusetts is not identified as one of the schools, since this study addresses only replacement of training ships for the other four academies.

C. Acquisition and Conversion of Foreign-Built Ships

Through the use of the services of several reputable ship brokers familiar with foreign-flag vessels and their potential availability for acquisition, a list of 13 foreign-flag passenger

Table 4

U.S.-Built Vessels: Age, Location, and Condition

Designs/Vessels	Delivery Date (Age)	Location	Condition/Disposition
C4-S-57A			
AMERICAN CHALLENGER	1962 (24)	NDRF-James River	Fair (out of class)
AMERICAN CHAMPION	1963 (23)	NDRF-James River	Fair (out of class)
AMERICAN CHARGER	1962 (24)	NDRF-Suisun Bay	Fair (out of class)
AMERICAN CHIEFTAIN	1963 (23)	NDRF-James River	Scrap Candidate
AMERICAN CORSAIR	1963 (23)	NDRF-James River	Fair (out of class)
AMERICAN COURIER	1963 (23)	NDRF-James River	Scrap Candidate
PIONEER CONTENDER	1963 (23)	NDRF-Suisun Bay	Fair (out of class)
PIONEER CONTRACTOR	1963 (23)	RRF-Beaumont	Good (in class)
PIONEER CRUSADER	1963 (23)	RRF-Beaumont	Good (in class)
PIONEER MOON	1962 (23)	NDRF-Suisun Bay	Fair (out of class)
PIONEER COMMANDER	1963 (23)	RRF-Beaumont	Good (in class)
C3-S-38A			
ADVENTURER	1960 (26)	RRF-James River	Good (in class)
AIDE	1961 (25)	RRF-James River	Good (in class)
AMBASSADOR	1960 (26)	RRF-James River	Good (in class)
AGENT	1961 (25)	RRF-James River	Good (in class)
C3-S-37C			
ADABELLE LYKES	1963 (23)	RRF-Beaumont	Good (in class)
AIMEE LYKES	1963 (23)	RRF-James River	Good (in class)
CHARLOTTE LYKES	1963 (23)	RRF-Beaumont	Good (in class)
CHRISTOPHER LYKES	1963 (23)	RRF-James River	Good (in class)
MARGARET LYKES	1963 (23)	RRF-James River	Good (in class)
MAYO LYKES	1963 (23)	RRF-Beaumont	Good (in class)
SHELDON LYKES	1963 (23)	RRF-Beaumont	Good (in class)
ALLISON LYKES	1964 (22)	RRF-James River	Good (in class)
C1-M-122A			
AMAZONIA	1980 (6)	Title XI, On Charter - Rainbow Navigation	Good (in class)
ANTILLIA	1980 (6)	Title XI - Green Cove Springs, Florida 1/	Good (in class)
AMERICA	1979 (7)	Title XI - Green Cove Springs, Florida 1/	Good (in class)

Designs/Vessels	Delivery Date (Age)	Location	Condition/Disposition
C4-S-49A			
SANTA MAGDALENA	1963 (23)	Privately Owned - Prudential Lines	Poor 2/
SANTA MARIANA	1963 (23)	Privately Owned - Prudential Lines	Poor 2/
SANTA MARIA	1963 (23)	Privately Owned - Prudential Lines	Poor 2/

1/ Tentative agreement has been given by MARAD for sale to Island Shipping Corp., an affiliate of Rainbow Navigation, subject to shipyard inspection of vessels and approval of conditional agreement by Island Shipping.

2/ Based upon material condition of SANTA MERCEDES discovered during conversion to PATRIOT STATE.

Table 5

Training Ship Conversion Design Characteristics

Design		LBP 1/	Beam 2/	Design Draft 3/	Machinery Type	Shaft Horsepower	Service Speed (Knots) 4/	No. of Cadets	No. of Crew & Faculty	School(s)
C4-S-57A		529'-0"	75'-0"	28'-8.5"	Steam Turbine	16,500	20	200	54	Texas
C3-S-38A		470'-0"	73'-0"	Scantling 28'-0"	Steam Turbine	13,750	18.5	600	117	New York Maine California Texas
C3-S-37C	(a)	475'-0"	69'-0"	Scantling 30'-0"	Steam Turbine	9,000	17.4	600	102	New York Maine California Texas
	(b)	475'-0"	69'-0"	Scantling 30'-0"	Steam Turbine	9,000	17	400	97	Maine California Texas
C1-M-122A		274'-0"	45'-0"	14'-2"	Single Diesel	2,800	13.1	250	32	Texas
C4-S-49A		508'-6"	79'-0"	27'-0"	Steam Turbine	18,000	20	596	100	New York Maine California Texas

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1/ Length between perpendiculars: the length of the ship measured from the point on the bow at the design waterline (draft) to the centerline of the rudder stock (post).

2/ The maximum width of the ship measured to the outside of the hull frame angle or channel but inside of the shell plating (molded).

3/ Draft is the vertical distance from the ship's baseline to the waterline at which the ship floats. Design draft is the full-load draft used for calculations during the ship's design process.

4/ The predicted average at which the ship (at design draft) is expected to continuously operate over its entire life at sea.

ships was obtained for examination in the study. Since we know of no foreign-flag freighters with substantially lower total acquisition and conversion cost than several of the passenger vessels identified by the ship brokers, foreign-flag freighters were not considered for the study.

The 13 foreign-flag passenger vessels identified as potential acquisition candidates average a little over 20 years in age, ranging from a 14-year old steam-powered (all others are diesel powered) vessel to a 25-year old vessel. Based upon the number of passenger berths identified by the ship brokers as currently existing on the vessels in their present configurations, only one vessel has sufficient capacity to accommodate the proposed cruise complement for the New York State Maritime Academy; three vessels could accommodate the Texas Maritime Academy cruise complement, but not those of Maine and California; while the other nine vessels could accommodate the cruise complements for Maine and California, and also that for Texas under a ship-sharing arrangement.

In general, foreign-built vessels are not built to U.S. passenger ship safety standards, are equipped with foreign-built equipment, and are built to foreign specifications. Because of this, there are potential additional costs involved in the use of a foreign-built vessel. Four different initial costs were identified applicable to acquiring and converting a foreign-flag vessel to a

State marine school training ship: acquisition costs, reflagging costs, activation/reactivation/voyage repair costs, and conversion costs.

The acquisition costs for the 13 foreign-flag passenger vessels identified by the ship brokers range from $1.5 million dollars to $17.0 million. Given this range, the use of a single acquisition cost is highly arbitrary. However, for comparison purposes, the figure of $9.5 million was derived by dropping the highest and lowest acquisition costs identified by the ship brokers and taking an average of the remaining highest and lowest cost vessels. It is anticipated that the actual cost of most foreign-built vessels that might be appropriate would be somewhat nearer to the upper level of the range than the lower level.

Reflagging costs would be entirely dependent upon the degree to which the foreign-flag vessels would meet Coast Guard requirements for training ships. Reflagging costs will vary greatly, particularly with passenger ships, due to varying foreign requirements for items such as electric cabling and installation of safety equipment. The most conservative estimates for reflagging costs are $5-7 million. However, in 1983, MARAD surveyed the ILMATAR, a Norwegian-registered passenger vessel, for conversion to a training ship. In that instance, the estimated reflagging cost for joiner work, electric cabling, installation of safety equipment, and other work to meet U.S. Coast Guard requirements was $14 million. Therefore, for purposes of developing the cost estimates used in this study, projected reflagging costs of $10 million would not appear to be inappropriate.

Since it is anticipated that a passenger ship suitable for consideration as a training ship would be operating in passenger service, it is presumed there would be no, or very limited, activation costs involved. However, acquisition presumably would be on an as is basis, and a factor must be included for potential voyage and equipment repairs. For purposes of developing this estimate, it would be prudent to anticipate a cost of at least $2 million, although it should be noted that extensive equipment repairs in excess of $7 million were necessary in the conversion of the PATRIOT STATE for Massachusetts Maritime Academy.

Although it is possible that a foreign passenger ship could be obtained that would be suitable for cadet training and habitability with virtually no conversion costs, it is more likely that any given ship would require some modification to accommodate a special school, or schools in the case of ship sharing. Such modification might include a nominal increase in berthing capacity, alteration to provide classroom and training spaces, or galley reworking. A factor of $3 million for potential conversion costs would not seem inappropriate.

D. Conversion of Inactive Ships in U.S. Navy Custody

An examination was made of inactive ships currently in U.S. Navy custody and those ships scheduled to enter the inactive fleet during the years covered by the study. Because of the limited number of vessels scheduled to enter this fleet during fiscal years 1986 through 1995, these were eliminated from further consideration.

The majority of the inactive vessels in U.S. Navy custody are currently maintained at one of the existing National Defense Reserve Fleet sites. Vessels with merchant hulls that are of a size that could be converted to a maritime academy training ship are presented in Table 6 according to type of vessel, year built, present location, and material condition or present disposition plans.

This table shows that the inactive vessels in U.S. Navy custody consist primarily of a number of 40-year old vessels and one 29-year old cargo ship. All of these vessels are in poor to fair condition, are scheduled to be scrapped, or are on hold under special legislation. Therefore, no attempt was made to cost out the conversion and activation of any of these vessels for use as a training ship, and they were dropped from further consideration.

E. Selection of Replacement Ship

The estimated costs of alternative replacement training ships are summarized in Table 7. The total costs range from $15.7 million for the smaller capacity C3-S-37c conversion to $86 million for new construction of a ship of the PD-211 design.

Table 6

Inactive Vessels in U.S. Navy Custody

Vessel Type/Name	Year Built	Present Location	Condition/ Disposition
Transports (AP)			
GENERAL W.H. GORDON	1944	NDRF-James River	Fair
GENERAL W.A. MANN	1943	NDRF-James River	Poor
GENERAL ALEXANDER M. PATTON	1944	NDRF-James River	Fair
GENERAL MAURICE ROSE	1945	NDRF-James River	Fair
GENERAL NELSON M. WALKER	1945	NDRF-James River	On Hold-Special Legislation
GENERAL SIMON B. BUCKNER	1945	NDRF-James River	Fair
GENERAL A.E. ANDERSON	1943	NDRF-Suisun Bay	To Be Scrapped
GENERAL J.C. BRECKINRIDGE	1945	NDRF-Suisun Bay	Fair
GENERAL WILLIAM MITCHELL	1944	NDRF-Suisun Bay	Fair
GENERAL WILLIAM WIEGEL	1945	NDRF-Suisun Bay	Fair
GENERAL DANIEL SULTAN	1944	NDRF-Suisun Bay	Fair
GENERAL EDWIN D. PATRICK	1945	NDRF-Suisun Bay	Fair
Transport Oilers (AOT)			
TALLULAH	1942	NDRF-James River	Poor
MILLICOMA	1943	NDRF-James River	Poor
SAUGATUCK	1942	NDRF-James River	Poor
CACHE	1942	NDRF-Beaumont	Poor
SCHUYKILL	1943	NDRF-Beaumont	Poor
MISSION SANTA YNEZ	1944	NDRF-Suisun Bay	Poor
Cargo Ships (AK)			
MARINE FIDDLER	1945	NDRF-James River	To Be Scrapped
MIRFAK	1957	NDRF-James River	Fair
VICTORIA	1944	NDRF-James River	To Be Scrapped
WYANDOTTE	1944	NDRF-Suisun Bay	To Be Scrapped
Amphibious Cargo Ships (AG)			
KINGSPORT	1944	NDRF-James River	To Be Scrapped
Oilers (AO)			
ASHTABULA	1943	NDRF-Suisun Bay	Fair
Hospital Ships (AH)			
SANCTUARY	1944	NDRF-James River	To Be Scrapped

Table 7

Replacement Training Ship Alternative Cost Estimate Comparison
(FY 1987 Dollars in Millions)

Ship Type	Construction Costs	Acquisition Costs	Conversion Costs	Reflagging Costs	Activation/ Reactivation/ Voyage Repairs Costs	Total Costs
New Construction						
PD-211	$86.0	N.A.	N.A.	N.A.	N.A.	$86.0
Conversions - U.S.-Built						
C4-S-57A	N.A.	N.A.	$18.0	N.A.	$0.3 1/	$18.3
C3-S-38A	N.A.	N.A.	$16.6	N.A.	$0.2 1/	$16.8
C3-S-37C (larger capacity)	N.A.	N.A.	$16.6	N.A.	$0.2 1/	$16.8
C3-S-37C (smaller capacity)	N.A.	N.A.	$15.5	N.A.	$0.2 1/	$15.7
C1-M-122A	N.A.	N.A.	$19.3	N.A.	$0.2 1/	$19.5
C4-S-49A (Magdalena Class)	N.A.	$4.2 2/	$ 8.5 2/	N.A.	$7.2 2/	$19.9 2/
Acquisiton/Conversion - Foreign-Built						
Estimated Cost (Cost Range)	N.A. (N.A.)	$9.5 ($1.5-17.0)	$3.0 ($3.0)	$10.0 ($10.0)	$2.0 ($2.0)	$24.5 ($16.5-32.0)

1/ Approximately $3 million already has been invested in voyage repair and pre-reactivation work to upgrade each of these ships to RRF status, and additional expenses for preparing the vessels as training ships would be comparatively low.

2/ Based on experience converting the SANTA MERCEDES to the PATRIOT STATE.

At $86 million, the cost of constructing the PD-211 is three to five times greater than converting an existing ship. No attempt has been made to estimate life cycle costs for the various replacement candidates, but a new ship obviously would have a longer useful life than a converted existing ship. The annual cost over the life cycle of the PD-211 would be more competitive with comparable costs for converted ships. Furthermore, no attempt has been made to place a value on qualitative factors which would impact on the relative utility of each ship for officer training. The PD-211 would far outweigh the converted ships when measured by such a standard. Nevertheless, the initial cost of the PD-211 must be considered prohibitive for purposes of this study.

The total cost estimate for the foreign-built alternative, including acquisition, conversion, reflagging, and voyage repairs, is $24.5 million. This is probably a reasonable estimate when one considers the identified cost range of $16.5-$32 million. Because this figure is substantially greater than the total conversion and activation costs calculated for any existing U.S.-built vessel, the use of foreign-built vessels is not considered a viable alternative from a cost standpoint.

It is recognized that the $24.5 million estimate for a foreign-built ship is extremely rough. It is possible that, either now or in the future, specific foreign-built ships might be available which could be readily purchased and converted into training ships for less than $24.5 million, and possibly for less than the cost of converting U.S.-built ships. Furthermore, it may be possible to obtain such added benefits as diesel power and better cadet accommodations in the foreign-built vessels at those lower costs. Should the decision be made to acquire replacement vessels for the existing training ships, either on a one ship per school basis or in a ship-sharing arrangement, it is strongly recommended that the availability of suitable foreign-built ships be closely examined again. Such examination clearly would require on-board inspection, complete marine survey, and development of detailed estimates, which have not been possible in this study.

The cost estimates presented in Table 7 for converting U.S.-built ships were not developed uniformly. The estimate for the C4-S-49A (Magdalena Class) is based on firm figures associated with converting the SANTA MERCEDES to the training ship PATRIOT STATE. The estimates for the remaining U.S.-built ships are updated estimates based on five design studies completed over the last 10 years. However, the design studies also were not developed according to a uniform set of criteria. They represent a variety of vessel modifications for cadet habitability, ranging from austere pipe rack berthing to 4-man staterooms, to give one example. In order to compensate for these differences in the criteria used for the various ship conversion design studies, the total costs of the five designs have been averaged to form a composite replacement ship cost. This average total cost is $17.4 million. This composite is lower than the cost of constructing a new ship or converting a foreign-built ship, and lower than the actual cost of converting the SANTA MERCEDES. It is the cost used for a replacement ship in the remaining sections of this study.

III. TRAINING SHIP REPLACEMENT ALTERNATIVES

Alternative sources of replacement ships were examined in Section II; and for planning purposes, the cost of a replacement ship was developed based on a composite of potential replacement candidates. In Sections III and IV, four approaches to resolving the broader issue of how and when to replace training ships are addressed. The training ship operating scenario associated with each approach is described in Section III, and the Federal costs associated with each approach are developed in Section IV.

Whereas other options for training ship replacement come to mind, the four approaches presented herein are believed to represent alternatives which would perpetuate the SMS training ship program at minimum Federal investment. These four alternatives are: (1) continue use of the existing training ships; (2) maintain five training ships using the PATRIOT STATE and four replacement ships, for which conversion contracts would be awarded in FY 1987, with FY 1989 the first year of operation; (3) maintain five training ships using the PATRIOT STATE but with four replacement ships contracted at two-year intervals; and (4) adopt ship sharing, using the PATRIOT STATE for the academies in Maine, Massachusetts, and New York, and a replacement ship for the California and Texas schools.

The three alternatives which involve five-training ships presume that training will be continued in the present manner with each school using its assigned ship to provide sufficient training to prepare cadets to sit for licenses. The study compares the economic feasibility of the two-training ship and the five-training ship alternatives for 10 fiscal years, 1986 through 1995. Under the ship-sharing arrangement, the cost calculations anticipate basic maintenance and repair commensurate with extra use of the ships.

A. Continued Use of Existing Training Ships

Under this scenario, the present five training ships will continue to be used for the 10 year period covered by the study. With appropriate levels of maintenance and repair, these five ships can be maintained and serve as viable training platforms through 1995 and beyond.

B. Operating Scenarios and Assumptions for the Five-Training Ship Alternatives Using Replacement Ships

Two five-training ships alternative scenarios are presented in this study. The Federal Government costs involved in these scenarios include maintenance and repair costs for all existing ships and replacement ships, and conversion and activation/voyage repair costs for the replacement ships.

Under the first five-training ship alternative, the PATRIOT STATE is used by Massachusetts, and replacement ships are provided for the other four schools. Conversion contracts for all four replacement ships are awarded in FY 1987, and the ships begin operations in FY 1989. Until they come into operation, the schools will continue to use their present training ships. While the magnitude of costs in one year could be decreased by contracting for two ships in FY 1987 and two in FY 1988, the total costs would be greater if contracting were spread out over two years instead of one. This increase would be approximately 4 percent based upon escalation factors used for Federal budgeting purposes.

Under the second five-training ship alternative, the PATRIOT STATE again is used by Massachusetts and replacement ships again are provided for the other four schools. However, the replacement conversions are contracted at two-year intervals, starting in FY 1987, in a phased approach to training ship replacement. Each school will continue to use its present training ship until the newly converted replacement ship is delivered for operation as a training ship.

C. Operating Scenarios and Assumptions for the Ship-Sharing (Two-Training Ship) Alternative

1. Operating Scenario

Under the two-training ship alternative, the PATRIOT STATE will serve as the ship for the three East Coast schools: Maine, Massachusetts, and New York. The PATRIOT STATE was converted to carry 600 cadets, with Coast Guard approval to carry no more than 696 total passengers and crew. The projected cruise complement for New York, the largest school to use the PATRIOT STATE under this alternative, is 704: 578 cadets, 105 crew, and 21 faculty. It is assumed under this scenario that minor personnel adjustments will be made by New York in order to be able to use the PATRIOT STATE without necessitating any further conversion work. The first year of operation of the PATRIOT STATE as a shared vessel is assumed to be 1987, and the three schools will continue to use their current vessels in FY 1986.

Under ship-sharing, a newly converted replacement ship is used for training cruises by the California and Texas academies. Conversion will be contracted in 1987, and until that converted ship begins operation in FY 1989, the two schools will continue to use their present ships.

When the PATRIOT STATE and the replacement ship begin ship-sharing, the operating scenarios for both ships are based upon 9-week cruises for each school served. One week before each cruise and one week after each cruise is set aside for either preparing the ship for the cruise or clearing the ship after the cruise. Each ship is annually programmed for a period of nine weeks for maintenance and repair if needed. Thus, the PATRIOT STATE will be employed 33 weeks of the year for its three cruises, plus nine weeks for maintenance and repair, or a total of 42 weeks during the year. The replacement ship shared by the California and Texas schools is engaged 22 weeks of the year for its two cruises, plus nine weeks for maintenance and repair, or a total of 31 weeks during the year. Thus, the PATRIOT STATE is available for 10 weeks of the year and the replacement ship for 21 weeks of the year for dockside training or for other purposes.

Under the scenario for the PATRIOT STATE, the Massachusetts cruise leaves from Massachusetts and returns to Massachusetts. A supplemental crew from the New York academy is transported at Federal expense to Massachusetts to help bring the vessel to New York for that academy's cruise. After returning to New York to disembark cadets, the New York supplemental crew helps sail the ship back to Massachusetts, and the crew then is transported back to New York. The same sequence using a Maine supplemental crew applies to the Maine cruise. The primary berth for the PATRIOT STATE is at the Massachusetts school, because of its central location.

Under the scenario for the replacement ship, the ship is berthed at the California Maritime Academy and the California cruise will leave from and return to that berth. The supplemental crew and the cadets from the Texas school are transported to California for their training cruise. After the Texas school returns the ship to California, the supplemental crew and cadets are transported back to the Texas school.

Since there are historical precedents for off-summer cruises under five-training ship operations, the traditional academic year and weather have not been considered limiting factors in the scheduling for the two-training ship alternative.

2. Assumptions Under the Two-Training Ship Alternative

RRF Ships for Dockside Training

The Maine and New York training ships will be laid-up in the National Defense Reserve Fleet, and Ready Reserve Force ships will be provided to the Maine, Massachusetts, and New York academies for use as classrooms or for other academic purposes. This assumption maintains Federal assistance to all five schools with regard to the availability of a training platform located at each school. In addition to relocating Ready Reserve Force (RRF) ships at the three East Coast schools, the TEXAS CLIPPER remains berthed at the Texas academy and is available for dormitory needs and shoreside training purposes. The California school will have the use of the replacement ship for the 21 weeks that the ship is not on cruise or in the shipyard for maintenance and repair. During the Texas academy cruise, a Ready Reserve Force ship will be available to the California school for training at the Suisun Bay National Defense Reserve Fleet. For the 10 weeks that the PATRIOT STATE is not on cruise or in the shipyard for M&R, it will remain idle at Buzzard's Bay.

Nucleus Shipkeeping Crews

The Federal Government, as owner of the training ships, will contract for shipkeeping crews aboard the two ships. The shipkeeping crews will control housekeeping and maintenance on the vessels and provide familiarity and continuity of experience with vessel operations. This continuity of experience is considered necessary where two or three schools are using a single vessel. The control of housekeeping and maintenance is deemed necessary when feelings of proprietary ownership interest have been obviated by a situation in which each academy no longer takes training cruises aboard the vessel it considers its own. Each nucleus shipkeeping crew consists of 11 permanent billets. On cruise, the nucleus crews will supplement the officers and crew supplied by each individual academy who will conduct the training operation.

The 11 shipkeeping crew billets include the following: Master (deck), Chief Mate (deck), Chief Engineer, 1st Assistant Engineer, Bosun, Storekeeper, Chief Electrician, Assistant Electrician, and three general maintenance.

Transportation Costs of Officers, Crew and Cadets

The Federal Government will pay transportation costs of officers, crew, and in the case of Texas, cadets from their school to the training ship being used for training cruises, and return from the training ship to the school. The costs to be covered are new Federal travel expenses not included in current travel ceilings.

Maintenance and Repair

The Federal Government will finance maintenance and repair expenses for the two ships equivalent to the kinds of services subsumed under the five-training ship alternatives.

Ship Relocation Costs

The Federal Government will pay ship positioning voyage costs of moving the PATRIOT STATE to the Maine and New York academies for their cruises. The costs to be covered are fuel, tug assistance, and pilotage fees.

Consumables and Expendables

The Federal Government will pay for consumables and expendables on all cruises, except for food and fuel. The Maritime Education and Training Act of 1980 continues the policy set down under the Maritime Academy Act of 1958 (PL 85-672) which states that the training ship provided to a maritime academy "shall be repaired, reconditioned, and equipped (including supplying all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship." In the past, there have been differences of opinion between the States and Federal Government over who should pay for consumables and expendables other than food, and who should pay for fuel. Therefore, for the two-training ship alternative, it is assumed that the States will be responsible for laundry services and for providing all food and fuel necessary for the cruises. The Federal Government will reimburse the States on a per diem basis for food for the nucleus shipkeeping crew (covered under the contract for the nucleus crew) and will pay for all other consumables and expendables except where replacement is necessitated through negligence of State school supplementary crew or cadets. The assumptions in this study concerning Federal payment for consumables and expendables are not to be taken as a commitment to cover these items under any conditions other than those of the study.

Docking Expenses

The Federal Government will cover any special costs relative to moving training ships in order to dock the cruise vessel to embark and disembark cadets.

There is no room at the Maine or New York academies to berth the PATRIOT STATE during embarkation and debarkation. Therefore, there will be Federal costs associated with moving the RRF ships at those academies during both embarkation and debarkation for their cruises.

At the Massachusetts school, there is only room for one ship at present at the school's pier. A second ship could be docked there if dredging were done. Since the PATRIOT STATE was recently allowed to dock temporarily in the Cape Cod Canal, it is assumed that both the PATRIOT STATE and an RRF vessel can be accommodated for a short term at Buzzards Bay without incurring added Federal costs.

IV. FEDERALLY-FUNDED COSTS OF TRAINING SHIP REPLACEMENT ALTERNATIVES

A. Continued Use of Existing Training Ships

Projected maintenance and repair costs for the five existing training ships are displayed in Table 8.

The Maritime Administration, in cooperation with the State maritime academies of Maine, New York, California, and Texas, has conducted a habitability survey of the training ships used by their schools. The living spaces aboard the training ships were surveyed; and exceptions and deficiencies found within staterooms, messrooms, galleys, laundries, and lounges have been noted. Specifications are to be defined and cost estimates have been developed for correcting these problems. The identified habitability work will be integrated into each training ship's M&R process and scheduled for completion consistent with priorities and availability of funds. The costs of correcting all major training ship habitability deficiencies are not included in this study as funding alternatives are presently being studied. The M&R costs projected under this alternative would be higher should the habitability upgrade program be funded and implemented.

B. Five-Training Ship Alternative: All Conversions Contracted In FY 1987

Under this scenario, all training cruises are conducted on the existing training ships until the converted replacement ships come into operation in FY 1989 for the cruises by the California,

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Table 8

Estimated Maintenance and Repair, FY 1986-FY 1995: Existing Training Ships
(Dollars in Thousands)

Training Vessel	FY 1986	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	Totals
PATRIOT STATE	$1,120	$2,430	$2,500	$3,000	$3,000	$3,250	$3,250	$3,500	$3,500	$3,750	$29,300
STATE OF MAINE	2,189	2,030	2,500	3,000	3,000	3,250	3,250	3,500	3,500	3,750	29,969
EMPIRE STATE	2,394	2,030	2,500	3,000	3,000	3,250	3,250	3,500	3,500	3,750	30,174
GOLDEN BEAR	1,109	1,080	1,500	1,750	1,750	2,000	2,000	2,250	2,250	2,500	18,189
TEXAS CLIPPER	1,188	1,080	1,500	1,750	1,750	2,000	2,000	2,250	2,250	2,500	18,268
TOTALS	$8,000	$8,651	$10,500	$12,500	$12,500	$13,750	$13,750	$15,000	$15,000	$16,250	$125,901

Maine, New York, and Texas academies. Maintenance and repair for this alternative thus consists of M&R costs for the five existing training ships for FY 1986-FY 1988, M&R costs for the PATRIOT STATE for FY 1989-FY 1995, and M&R costs for the four replacement ships for FY 1989-FY 1995. The other Federal costs involved are for the conversion and activation costs for four replacement ships, which will be funded in FY 1987.

M&R costs for the replacement ships were developed using the same method that was used for developing the conversion/activation cost for a replacement ship. As noted in Section II of this study, the cost of a replacement ship is a composite of the estimated conversion and repair costs for five ship conversion design studies. Likewise, an average M&R cost was calculated for a replacement ship based on the projected M&R costs for the same five ship design studies. The projected M&R costs associated with the design studies, and as developed for a replacement ship, are shown in Table 9 for the years that replacement ships are used in any scenario in this study.

C. Five-Training Ship Alternative: Staggered Conversions Starting in FY 1987

Similar to the previous alternative, Federally-funded costs under this alternative include: maintenance and repair of existing training ships until they are replaced; activation/acquisition, conversion and repair of replacements ships; and maintenance and repair of replacement ships after delivery. For purposes of

Table 9

M&R Costs: Replacement Ships

M&R

Design Study Vessel Type	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
C4-S-57A	$824,900	$866,145	$909,215	$963,965	$1,031,490	$1,113,980	$1,203,040
C3-S-38A	620,500	651,525	690,580	738,760	797,890	861,765	905,200
C3-S-37C (larger capacity)	602,250	633,275	672,330	720,510	779,640	843,515	886,950
C3-S-37C (smaller capacity)	602,250	633,275	672,330	720,510	779,640	843,515	886,950
C1-M-122A	438,000	459,900	482,895	511,730	547,500	591,300	638,750
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Replacement Ship 1/	$617,580	$648,824	$685,470	$731,095	$787,232	$850,815	$904,178

1/ Based on average M&R costs of the five design study vessel types.

developing the Federal funding estimate, conversion and activation costs for the four replacement ships under this scenario are projected to be funded in the following fiscal years for the schools listed: FY 1987 (New York), FY 1989 (Maine), FY 1991 (California), and FY 1993 (Texas).

Maintenance and repair costs for existing and replacement training ships are presented in Tables 8 and 9. In accordance with the projected replacement schedule, the maintenance and repair schedule is projected as follows, by fiscal year:

FY 1986-FY 1988: 5 existing ships

FY 1989-FY 1990: 4 existing ships, 1 replacement ship (New York)

FY 1991-FY 1992: 3 existing ships, 2 replacement ships (New York, Maine)

FY 1993-FY 1994: 2 existing ships, 3 replacement ships (New York, Maine, California)

FY 1995: 1 existing ship (PATRIOT STATE), 4 replacement ships (New York, Maine, California, Texas)

D. Ship-Sharing (Two-Training Ship) Alternative

1. Expenses for Maintenance of Ships as Stationary Training Platforms

The total Federal costs for laying-up the STATE OF MAINE and EMPIRE STATE in the James River National Defense Reserve Fleet (JRRF), and the GOLDEN BEAR in the Suisun Bay National Defense Reserve Fleet (SBRF); providing the Maine, Massachusetts, and New York schools with Ready Reserve Force vessels for training platforms; maintaining the TEXAS CLIPPER for dormitory and training purposes; and maintaining the PATRIOT STATE while idled, differ considerably between first-year costs and subsequent-year costs.

Under this plan, the STATE OF MAINE and EMPIRE STATE will be steamed to Norfolk, Virginia, prior to being towed to the JRRF for lay-up, and the GOLDEN BEAR will be steamed to San Francisco prior to being placed in the SBRF. Other first-year costs include towing RRF ships from the JRRF to Castine, Maine, to Buzzards Bay, Massachusetts, and to Fort Schuyler, New York; annual maintenance and repair costs of the TEXAS CLIPPER; and shoreside service costs for the PATRIOT STATE, including costs of air, electricity, water, telephones, and guard service, for the 10 weeks the ship is idle at Buzzards Bay. There are no incremental maintenance and repair costs for the RRF ships, because those expenses will be covered by the Maritime Administration regardless of whether they are outported at the State marine schools or maintained at the National Defense Reserve Fleet site.

The recurring costs in subsequent years include maintenance under long-term lay-up of the STATE OF MAINE and the EMPIRE STATE at the JRRF and the GOLDEN BEAR at the SBRF, annual M&R of the TEXAS CLIPPER, and shoreside service costs for the PATRIOT STATE when idled. The Federal costs for the first-year and subsequent-years are presented in Tables 10 and 11, respectively.

Table 10

First-Year Costs Under the RRF Training Platform Plan
(FY 1987 Dollars)

Action	Cost	
Steam STATE OF MAINE to Norfolk from Castine 1/	$ 50,000	
Steam EMPIRE STATE to Norfolk from Fort Schuyler 1/	40,000	
Steam GOLDEN BEAR to San Francisco from Vallejo 1/	20,000	4/
Deactive STATE OF MAINE	750,000	
Deactive EMPIRE STATE	750,000	
Deactive GOLDEN BEAR	300,000	4/
Tow and moor STATE OF MAINE in JRRF	80,000	
Tow and moor EMPIRE STATE in JRRF	60,000	
Tow and moor GOLDEN BEAR in SBRF	35,000	4/
Tow RRF ship from JRRF to Castine 2/	80,000	
Tow RRF ship from JRRF to Buzzards Bay 2/	70,000	
Tow RRF ship from JRRF to Fort Schuyler 2/	60,000	
Shoreside service costs and guard service for idled PATRIOT STATE 3/	75,000	
Annual M&R of TEXAS CLIPPER	125,000	4/
Total	$2,495,000	

1/ Assumes vessel sailed by 28-man crew supplied by the academy. Includes transportation back to the academy and subsistence for one-day layover for crews of the STATE OF MAINE and EMPIRE STATE.

2/ Includes break-out, preparation, and crew.

3/ Ten-week cost of air, electricity, water, telephone, guard service, etc.

4/ FY 1989 cost; all other first-year costs are FY 1987 costs.

Table 11

Subsequent-Year Costs Under the RRF Training Platform Plan
(FY 1987 Dollars)

Action	Cost
Long-term lay-up of STATE OF MAINE in JRRF 1/	$ 50,000 3/
Long-term lay-up of EMPIRE STATE in JRRF 1/	50,000 3/
Long-term lay-up of GOLDEN BEAR in SBRF 1/	25,000 4/
Shoreside service costs and guard service for idled PATRIOT STATE 2/	75,000 3/
Annual M&R of TEXAS CLIPPER	90,000 4/
Total	$290,000

1/ Annual cost for long-term lay-up, including dehumidification and cathodic hull protection.

2/ Ten-week cost of air, electricity, water, telephone, guard service, etc.

3/ FY 1988-FY 1995 cost.

4/ FY 1990-FY 1995 cost.

2. Hiring of Nucleus Shipkeeping Crews

Table 12 summarizes the costs associated with maintaining nucleus shipkeeping crews aboard the PATRIOT STATE and the replacement ship under the two-training ship alternative. The estimates are based on a contracted operation at union wage scales. It may be possible to contract for crewing with the State schools as general agents and, thereby, gain the use of individuals already familiar with operation of the training ships and at potentially lower cost.

The contracts for both training ships will provide for officers (Master, Chief Mate, Chief Engineer, and 1st Assistant Engineer) to be available for work 365 days a year. The seven unlicensed personnel (Bosun, Storekeeper, two electricians, and three general maintenance) for each training ship will only be employed while the ships are being prepared for cruise, are on training cruises, and during embarkation and debarkation for the cruises. The crew costs in Table 12 reflect this full-time status of officers and part-time status of unlicensed personnel.

The contracting costs presented in Table 12 include two items additional to wage-related costs: per diem for food for the entire nucleus shipkeeping crew while on cruise and preparing the ship before and after each cruise, and per diem for food and lodging for the four officers while in the shipyard for maintenance and repair; and a coordinator's fee or contract overhead cost.

3. Transportation of Supplementary Crews and Texas Cadets

Transportation of supplementary crews includes six separate one-way trips - four on the East Coast and two between the Gulf and West Coasts. The training ship PATRIOT STATE will be sailed from the Massachusetts Maritime Academy to the two other East Coast academies with assistance of crews from the respective academies. Transportation is provided for a supplementary crew of 50 people

Table 12

Annual Nucleus Shipkeeping Crew Costs
(FY 1985 Dollars)

Position	PATRIOT STATE	Replacement Ship	Total
Master (deck)	$ 89,852 1/	$ 80,366 1/	$ 170,218 1/
Chief Mate (deck)	47,370 1/	43,661 1/	91,031 1/
Chief Engineer	77,073 1/	73,515 1/	150,588 1/
1st Assistant Engineer	47,684 1/	43,961 1/	91,645 1/
Bosun	18,755	17,491	36,246
Storekeeper	14,734	16,145	30,879
Chief Electrician	22,755	15,747	38,502
Assistant Electrician	16,863	14,380	31,243
General Maintenancemen (3)	35,987	39,141	75,128
Subtotal, Base Wages	$ 371,073	$ 344,407	$ 715,480
Fringes	691,820	715,519	1,407,339
Overtime	67,639	63,799	131,438
Total	$1,130,532	$1,123,725	$2,254,257
Per Diem (Food/Lodging)	63,392 2/	47,376 2/	110,768 2/
Contractor Profit and Overhead	119,392	117,110	236,502
TOTAL ANNUAL COST	$1,313,316	$1,288,211	$2,601,527

1/ Includes non-watch pay.

2/ Based on $16 per day for all crew members while on cruise and onloading and offloading cadets, and $100 per day for the four officers while in shipyard for M&R.

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from New York to Massachusetts to pick up the ship and then from Massachusetts back to New York upon returning the ship. Likewise, transportation is provided for a supplementary crew of 50 people from Maine to Massachusetts and back to Maine.

Projected crew sizes are based on the number of officers/crew required for cruises, reduced to 50 where necessary because the ship will be moved without cadets aboard.

The two trips between the Gulf and West Coasts require that a 43-man crew and five faculty, as well as 210 cadets, be flown from Texas to California and back to Texas.

Costs for transporting supplementary crews to and from the East Coast schools, as well as both crew and cadets to and from the Texas school, involve airfare for each trip and other travel expenses (e.g. taxis, buses, or other transportation between airports and the schools) estimated at 10 percent of air transportation costs. While costs are estimated based on flying, it is possible that busing might be more cost effective than flying on some of the trips.

The total estimated costs for transportation are presented in Table 13.

Table 13

Cost of Transporting Supplementary Crews and Texas Cadets (FY 1987 Dollars)

Trips	Air Fare	Other Travel Expenses 1/	Total Cost
East Coast (50 passenger each trip):			
New York to Massachusetts	$ 3,150	$ 315	$ 3,465
Massachusetts to New York	3,150	315	3,465
Maine to Massachusetts	3,800	380	4,180
Massachusetts to Maine	3,800	380	4,180
Subtotal	$ 13,900	$ 1,390	$ 15,290
Gulf/West Coasts (225 passengers each trip) 2/:			
Texas to California	$ 78,975	$ 7,897	$ 86,872
California to Texas	78,975	7,897	86,872
Subtotal	$157,950	$15,794	$173,744
TOTAL COST	$171,850	$17,184	$189,034

1/ Transportation between State marine schools and airports.

2/ Includes 48 crew/faculty and 177 cadets at charter flight rates.

4. Maintenance and Repair

M&R costs for the existing ships for FY 1986 are presented in Table 8. Essentially the same base maintenance and repair cost considerations are projected for the PATRIOT STATE and the replacement ship under the two-training ship alternative as are projected for the same two ships under the five-training ship alternatives. Because these two ships will be used for more than one annual cruise, certain M&R cost elements which would vary with the level of cruise activity were reestimated and are included in the total cost estimates of M&R for the two training ships. By 1989, the first full year of operation with two shared ships, the M&R cost is projected to be $5.3 million.

5. Vessel Positioning

Under the two-training ship alternative, the Federal Government pays fuel, tug assistance, and pilotage costs of moving the PATRIOT STATE between Buzzards Bay, Massachusetts, and both Fort Schuyler, New York, and Castine, Maine. The annual costs, in 1987 dollars, are estimated at $50,000 between Massachusetts and New York and $65,000 between Massachusetts and Maine, for an annual total of $115,000.

6. Consumables and Expendables

Consumable stores are articles which, by the nature of their composition or intended use, (1) lose all value upon initial usage and are considered consumed when used (e.g., paint, packing, and soap), (2) would be practically worthless for resale or transfer immediately after their initial use (e.g., paint brushes, mops, brooms, and rope), or (3) lose their individual identity when used in a larger piece of equipment or when used in conjunction with repairs or an installation (e.g., pipe fittings, valves, fire brick, wire, fuses, sockets, and plugs).

Expendable equipment refers to all items of a portable nature (sometimes secured because of weight or size) which are not a part of the ship itself and are required in the normal day-to-day maintenance and operation. Expendable equipment, due to its portable nature, lends itself to being misplaced, pilfered, or otherwise subjected to daily or frequent use, necessitating relatively frequent repair or replacement (e.g., navigating instruments, cargo gear, tools, office machines, linens and bedding, galley gear, crockery, and glassware).

Consumables and expendables are also referred to as stores, supplies, and equipment (SS&E) and do not include spare parts, which are included as costs under maintenance and repair. SS&E costs are estimated in two categories, start-up SS&E costs and annual SS&E costs. Start-up SS&E costs are estimated at $150,000 for the PATRIOT STATE and $113,000 for the replacement ship, while annual SS&E costs are about $488,000 for the PATRIOT STATE and $221,000 for the replacement ship. The costs for the replacement ship are composite costs based on the average SS&E costs for the five design study vessels.

7. Repositioning the Maine and New York Academy Ships

An additional Federal cost of approximately $40,000 will be incurred in moving the RRF ships assigned to the Maine and New York Academies while embarking and disembarking the PATRIOT STATE for their cruises. This estimate is based on a cost of $5,000 for tug assistance in shifting the RRF vessels back and forth from their berths on the two occasions that the ship must be moved to accommodate the training ship. It assumes that the Maine and New York academies provide linehauling personnel for moving the vessels.

V. OBSERVATIONS ON TRAINING SHIP REPLACEMENT ALTERNATIVES

The estimated Federally-funded costs for the four ship replacement alternatives are presented in Table 14. These estimates indicate that the sharing of two training ships would be the lowest-cost alternative over the next 10 years. The cost of the continued use of the five existing training ships is practically the same. The 10-year cost of the five-training ship alternative in which four ships are replaced in 1987 is not appreciably higher. However, that alternative would require a Federal investment of $69.6 million for replacement training ships in 1987 in addition to funding for maintenance and repair for that year.

The longer the delay in replacing the existing training ships, the greater the total cost will be. The highest-cost alternative would be to maintain five training ships with replacement of four on a staggered schedule. The high cost of this alternative is due to the continued funding of higher levels of M&R on existing training ships and the increased cost of providing replacement ships in later years. Interestingly, less than one-third of the additional incremental cost is attributable to the projected effect of inflation on the cost of replacement ships. More than two-thirds of the additional cost is due to the increased M&R associated with continued use of existing training ships for a longer period.

A comparison of the two lowest-cost alternatives indicates that savings from eliminating the high M&R costs of three training ships more than offsets the incremental increase in M&R for each of the two ships in a shared-ship arrangement, when these ships are used for all five annual cruises. In fact, these savings are sufficient to also offset the cost of replacing one of the two ships as well as the additional non-M&R costs associated with ship-sharing. Thus, the decision of selecting between these two options is not one to be based on cost, but rather one of deciding whether the advantages of providing each State maritime academy with its own training ship are greater than the advantages of providing two newer ships for the academies to share.

The study covers a 10-year period, but training is an ongoing process. The cost of providing training ships needs to be viewed as a continuum. The option of continued use of existing training ships is a viable alternative with appropriate levels of ship maintenance. It would be one of the lowest-cost alternatives over the next 10 years. However, these ships eventually will have to be replaced. When replacement occurs at some point beyond the duration of the study, possibly even in the 11th year, the total cost of replacement would make this the highest cost alternative.

Table 14

Federally-Funded Costs of
Training Ship Replacement Alternatives
FY 1986 - FY 1995
(Dollars in Thousands)

Cost Element	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Ten-year Total
Continued Use of Existing Training Ships											
Maintenance and repair of 5 ships	$8,000	$8,651	$10,500	$12,500	$12,500	$13,750	$13,750	$15,000	$15,000	$16,250	$125,901
Total	$8,000	$8,651	$10,500	$12,500	$12,500	$13,750	$13,750	$15,000	$15,000	$16,250	$125,901
Five-Training Ships: One-Year Replacement											
Maintenance and repair of 5 ships	$8,000	$8,651	$10,500	$5,470	$5,595	$5,992	$6,174	$6,649	$6,903	$7,367	$71,301
Conversion and activation of 4 replacement ships	—	69,600	--	--	—	—	—	—	—	—	69,600
Total	$8,000	$78,251	$10,500	$5,470	$5,595	$5,992	$6,174	$6,649	$6,903	$7,367	$140,901
Five-Training Ships: Staggered Replacement											
Maintenance and repair of 5 ships	$8,000	$8,651	$10,500	$10,118	$10,149	$9,871	$9,962	$9,362	$9,552	$7,367	$93,532
Conversion and activation of 4 replacement ships	—	17,400	—	18,694	—	19,678	—	20,594	—	—	76,366
Total	$8,000	$26,051	$10,500	$28,812	$10,149	$29,549	$9,962	$29,956	$9,552	$7,367	$169,898
Two-Training Ships: Ship-Sharing											
Maintenance and repair of 2-5 ships	$8,000	$4,591	$6,750	$5,272	$5,311	$5,732	$5,789	$6,234	$6,314	$6,755	$60,748
Conversion and activation of 1 replacement ship	—	17,400	—	—	—	—	—	—	—	—	17,400
Maintenance of ships as stationary training platforms	—	2,015	182	704	321	328	336	343	351	359	4,939
Nucleus shipkeeping crews	—	1,513	1,628	3,451	3,659	3,899	4,126	4,365	4,618	4,886	32,145
Supplementary crew & cadet transportation	—	15	16	203	209	214	219	224	229	234	1,563
Vessel positioning - movement of East Coast ship between schools	—	115	119	124	127	130	133	136	139	142	1,165
Consumables and expendables	—	150	507	645	783	801	820	839	858	878	6,281
Repositioning the Maine and New York SMP vessels to berth the cruise ship	—	40	42	43	44	45	46	47	48	50	405
Total	$8,000	$25,839	$9,244	$10,442	$10,454	$11,149	$11,469	$12,188	$12,557	$13,304	$124,646

STATE MARINE SCHOOLS TRAINING SHIP REPLACEMENT ALTERNATIVES STUDY

Summary/Decision Paper

SUMMARY

- This study responds to a Senate Committee on Commerce, Science, and Transportation request for a study, plan and time-phased budget for training ship replacement. The request was included in the Committee Report on the Maritime Appropriation Authorization Act for FY 1986 (S. 679).
- All potential sources for replacement ships have been examined and the study addresses four alternative approaches to training ship replacement. Ten-year cost estimates have been developed for each alternative (FY 1986-FY 1995).
- The study acknowledges that development of a firm plan will require further investigation of specific ships and preparation of detailed cost estimates.
- A decision is needed on the desired approach to training ship replacement.

SELECTION OF ALTERNATIVE

(1) Retention of Existing Training Ships: The present five training ships would continue to be used for the next ten years. Estimated costs reflect only M&R to keep the ships operative during that period.

FY 1987 Cost	Ten-Year Cost
$8.7 million	$125.9 million

Decision

YES [ ]   NO [ ]

(2) One-for-one Replacement of Training Ships: One-Year Contracting: Massachusetts would continue to use the PATRIOT STATE, and the other four training ships would be replaced with converted vessels, all contracted in FY 1987 and becoming operational in FY 1989. Cost estimates reflect M&R and activation and conversion of four replacement ships.

FY 1987 Cost	Ten-Year Cost
$78.3 million	$140.9 million

Decision

YES [ ]   NO [ ]

(3) One-for-one Replacement of Training Ships: Staggered Contracting: Massachusetts would continue to use the PATRIOT STATE, and the other four training ships would be replaced with converted vessels in a 2-year staggered replacement schedule. The academies would continue to use present ships until replacement ships become operational. Cost estimates reflect M&R and activation and conversion of four replacement ships.

FY 1987 Cost	Ten-Year Cost
$26.1 million	$169.9 million

Decision

YES [ ]   NO [ ]

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(4) Two-Training Ships: Ship Sharing: Maine, Massachusetts, and New York would share the use of the PATRIOT STATE starting in FY 1987; California and Texas would share a converted vessel which would be contracted for in FY 1987 and become operational in FY 1989; RRF vessels would be home ported at the three East Coast schools and California and Texas would have access to other ships, all for dockside training purposes. Cost estimates reflect M&R, activation and conversion of one replacement ship, NDRF lay-up of old training ships, Federally employed nucleus shipkeeping crews, and miscellaneous ship positioning and crew and cadet transportation expenses.

FY 1987 Cost	Ten-Year Cost
$25.8 million	$124.6 million

Decision

YES [ ] NO [ ]

(5) Other Alternative:

Decision

YES [ ] NO [ ]

JOHN GAUGHAN
Maritime Administrator